BICENTENNIAL OF THE CONSTITUTION

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S.J. Res. 33, S. 477, and S. 1631

TO ESTABLISH A COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SEPTEMBER 17, 1981

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[97th Congress]

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BICENTENNIAL OF THE CONSTITUTION

THURSDAY, SEPTEMBER 17, 1981

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON THE CONSTITUTION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 318, Russell Senate Office Building, Senator Orrin G. Hatch (chairman of the subcommittee) presiding.

Present: Senator Hatch.

Staff present: Steve Markman, general counsel; Peter Ormsby, professional staff member; and Claire Greif, clerk.

OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH, AND CHAIRMAN, SUBCOMMITTEE ON THE CONSTITUTION, COMMITTEE ON THE JUDICIARY

Senator HATCH. The Subcommittee on the Constitution of the Committee on the Judiciary will come to order.

It was 194 years ago today that the work of the Constitutional Convention was formally completed. On September 17, 1787, the work of that body culminated in the engrossing of the proposed new Constitution that would replace the Articles of Confederation.

It is that event that we are commemorating today with hearings of the Senate Subcommittee on the Constitution. It is that event that we hope to commemorate in 6 years with an appropriate recognition of its bicentennial.

As one observer from overseas would note on the occasion of the Constitution's centennial nearly 100 years ago:

> I have always regarded that Constitution as the most remarkable work known to me in modern times to have been produced by the human intellect.

I have no reason to believe that that great British statesman, William Gladstone, would have had his views altered by the events of the past century. Indeed, I believe that the durability of this document would have impressed the British Prime Minister even more today than when he spoke.

Although there are those who would disagree with me on this, I believe that the Constitution has proven durable—not because it is an evolving or flexible document but because it addressed principles that were enduring and because it created institutions that were in accord with the realities of man's existence.

In this latter sense, it was a profoundly nonutopian document, one recognizing and accepting the frailties of men and women and their institutions.

The political principles that represented the foundations of the Constitution—federalism, checks and balances, separation of powers, concurrent majorities, and limited government—are just as relevant for this country as it approaches its bicentennial as they were for Madison, Hamilton, and Washington nearly 200 years ago.

It is my hope that whatever form of commemoration emerges from the congressional process, it will focus closely upon these concepts and their contribution to the American experience.

There are two bills that are presently before this committee that would establish a commemoration process for the Constitution bicentennial—S. 477 introduced by the distinguished Senator from Maryland, Senator Mathias, and Senate Joint Resolution 33 introduced by the distinguished North Carolina Senator, Senator Helms. There are a great many similarities between these measures.

Let me outline briefly those elements that I believe to be important to the process for commemoration created by this committee.

First, I would hope that it would recognize that a commemoration must be true to the Constitution in that it should recognize an active role for the States. Washington cannot be the focus of all activity.

Second, I would hope that it would recognize that a commemoration must be true to the Constitution in that it should recognize an active role for the private sector. Already private organizations have done a great deal to develop interest in the bicentennial and to outline a wide variety of means by which our Nation can give honor to our Constitution. The Government cannot be the focus of all activity.

Third, while the fireworks and glamour of our Revolutionary Bicentennial were impressive, I would hope that a commemoration would encourage among the people a deeper understanding of what the Constitution is all about. There is a need for celebration, but there is also a need for reflection.

Fourth, I would hope that the diversity of understanding that exists in this country about the Constitution and its provisions will be reflected in its commemoration. There will be no "party line" on what is most important about the Constitution.

I have my own views about this, as do each of my colleagues, and as do each of those in this room here today. These differences must be recognized and respected.

Finally, I would hope that we could bring into the commemoration process as many individuals and as many organizations as possible. The Constitution does not belong to lawyers, and it does not belong to academicians. It does not belong to Members of Congress. It belongs to each of the citizens of our country who live under a Government subject to its powers and limitations.

[The bills introduced by Senators Helms, Mathias, and Specter follow:]

97TH CONGRESS
1ST SESSION

S. J. RES. 33

To establish a commission to plan for the two hundredth anniversary celebration of the birth of our Constitution.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (legislative day, FEBRUARY 16), 1981

Mr. HELMS introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

---

JOINT RESOLUTION

To establish a commission to plan for the two hundredth anniversary celebration of the birth of our Constitution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Constitution Bicentennial Observance Act".

SEC. 2. (a) As this Nation approaches the bicentennial of the formulation and ratification of the United States Constitution and the historic events preceding and associated with the United States Constitution which are of such major significance in the development of our national heritage of

individual liberty, representative government, and the attainment of equal and inalienable rights and which have also had so profound an influence throughout the world, it is appropriate and desirable to provide for the observation and commemoration of this anniversary and these events through local, State, National, and international activities planned, encouraged, developed, and coordinated by a national commission representative of appropriate public and private authorities and organizations.

(b) There is hereby established a commission to be known as the United States Constitution Bicentennial Commission (hereinafter referred to as the "Commission") to plan, encourage, develop, and coordinate the commemoration of the United States Constitution bicentennial.

(c) The Commission shall be composed of the following members:

(1) Four Members of the Senate appointed by the President of the Senate.

(2) Four Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(3) The Secretary of State, the Attorney General, the Librarian of Congress, the Secretary of the Smithsonian Institution, the Archivist of the United States, and the Chairman of the Federal Council on the Arts

and the Humanities, all of whom shall be ex officio members of the Commission.

(4) Four members of the Federal judiciary to be appointed by the Chief Justice of the United States.

(5) Twenty-five members who are not otherwise employees or officers of the United States appointed by the President, no more than thirteen of whom may be identified with any one political party. Such members shall be so chosen as to be broadly representative of the Nation's people, and one member shall be designated as the Chairman by the President.

(d) Vacancies shall be filled in the same manner in which the original appointments were made.

SEC. 3. (a) It shall be the duty of the Commission to prepare an overall program for commemorating the bicentennial of the United States Constitution, and to plan, encourage, develop, and coordinate observances and activities commemorating the historic events that preceded, and are associated with, the United States Constitution. The program for commemorating the bicentennial of the United States Constitution shall be celebrated over a three-year period, each year being devoted to the relationship between, and the historical development of, the three branches of government, and the formation and establishment of the United States Constitution.

(b) In preparing its plans and program, the Commission shall give due consideration to any related plans and programs developed by State and local governments, and private groups, and it may designate special committees with representatives from such bodies to plan, develop, and coordinate specific activities.

(c) In all planning the Commission shall give special emphasis to the ideas associated with the Constitution which have been so important in the development of the United States, in world affairs, and in mankind's quest for freedom.

(d) Not later the two years after the date of the approval of this joint resolution, the Commission shall submit to the President a comprehensive report incorporating its specific recommendations for the commemoration of the bicentennial and related events. This report may recommend activities such as, but not limited to, the following:

(1) the production, publication, and distribution of books, pamphlets, films, and other educational materials focusing on the history, culture, and political thought of the period of the United States Constitution;

(2) bibliographical and documentary projects and publications;

(3) conferences, convocations, and lectures, seminars, and other programs;

(4) the development of libraries, museums, historic sites, and exhibits, including mobile exhibits;

(5) ceremonies and celebrations commemorating specific events;

(6) programs and activities focusing on the national and international significance of the United States Constitution, and its implications for present and future generations; and

(7) the issuance of commemorative coins, medals, certificates of recognition, and stamps.

(e) The report of the Commission shall include recommendations for the allocation of financial and administrative responsibility among the public and private authorities and organizations recommended for participation by the Commission. The report shall also include proposals for such legislative enactments and administrative actions as the Commission considers necessary to carry out its recommendations. The President shall transmit the Commission's report to the Congress together with such comments and recommendations for legislation and such report of administrative actions taken by him as he deems appropriate.

SEC. 4. (a) In fulfilling its responsibilities the Commission is authorized and directed to consult, cooperate with, and seek advice and assistance from, appropriate Federal departments and agencies, State and local public bodies,

learned societies, and historical, patriotic, philanthropic, civic, professional, and related organizations. Such Federal departments and agencies shall cooperate with the Commission in planning, encouraging, developing, and coordinating appropriate commemorative activities.

(b) The Secretary of the Interior shall undertake a study of appropriate actions which might be taken to further preserve and develop historic sites related to the formulation and ratification of the United States Constitution, at such time and in such manner as will insure that fitting observances and exhibits may be held at appropriate sites during the bicentennial celebration. The Secretary shall submit the results of his study to the Commission, together with his recommendations, affording the Commission an opportunity to review his study, and to incorporate such of its findings and recommendations as the Commission may deem appropriate in the report required by section 3(d).

(c) The Chairman of the Federal Council on the Arts and the Humanities, the Chairman of the National Endowment for the Arts, and the Chairman of the National Endowment for the Humanities shall cooperate with the Commission, especially in the encouragement and coordination of scholarly works and presentations focusing on the history, culture, and political thought of the period surrounding the formulation and ratification of the United States Constitution.

(d) The Librarian of Congress, the Secretary of the Smithsonian Institution, and the Archivist of the United States shall cooperate with the Commission in the development and display of exhibits and collections, and in the development and preparation of bibliographies, catalogs, and other materials relevant to the period surrounding the formulation and ratification of the United States Constitution.

(e) Each of the officers listed in subsections (c) and (d) of this section shall submit recommendations to the Commission in sufficient time to afford the Commission an opportunity to review them, and to incorporate such of the recommendations as the Commission may deem appropriate in the report required by section 3(d).

SEC. 5. (a) The Commission is authorized to accept donations of money, property, or personal services.

(b) All books, manuscripts, miscellaneous printed matter, memorabilia, relics, and other materials relating to the period surrounding the creation and ratification of the United States Constitution donated to the Commission may be deposited for preservation in National, State, or local libraries or museums or may be otherwise disposed of by the Commission in consultation with the Librarian of Congress, the Secretary of the Smithsonian Institution, the Archivist of the United States, and the Administrator of General Services.

SEC. 6. (a) The members of the Commission shall receive no compensation for their services. Members from the legislative and executive branches shall be allowed necessary travel expenses as authorized under law for official travel. Members appointed by the President under section 2(b)(5) shall be allowed necessary travel expenses as authorized by section 5703 of title 5, United States Code.

(b)(1) The Chairman, with the advice of the Commission, shall appoint a Director who will be compensated at level IV of the Executive Schedule established under section 5315 of title 5, United States Code, and three Deputy Directors who will be compensated at level V of the Executive Schedule established under section 5316 of such title. Such officers shall serve at the pleasure of the Chairman.

(2) The Commission shall have power to appoint and fix the compensation of such additional personnel as it deems advisable and to appoint such advisory committees as it deems necessary.

(3) The Commission shall delegate such powers and duties to the Director as may be necessary for the efficient operation and management of the Commission.

(c) The Commission may procure services as authorized by section 3109 of title 5, United States Code.

(d) The Commission, to the extent necessary, may procure supplies, services, and property; make contracts; expend

in furtherance of this Act funds appropriated, donated, or received in pursuance of contracts hereunder; and exercise those powers that are necessary to enable it to carry out efficiently and in the public interest the purposes of this Act.

(e) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Department of the Interior, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Secretary of the Interior, except that the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (under the authority of section 5514(b) of title 5, United States Code) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Secretary for the administrative control of funds under the authority of section 3679(g) of the Revised Statutes (31 U.S.C. 665(g)) shall apply to appropriations of the Commission.

(f) Any property acquired by the Commission remaining upon its termination may be used by the Secretary of the Interior for purposes of the National Park Service, or may be disposed of as excess or surplus property.

(g) Any person who, except as authorized under rules and regulations issued by the Commission, knowingly, manufactures, reproduces, or uses any logos, symbols, or marks originated under authority of and certified by the Commission for use in connection with the commemoration of the United States Constitution bicentennial, or any facsimile thereof, or in such a manner as suggests any such logos, symbols, or marks, shall be fined not more than $250, or imprisoned not more than six months, or both. This section shall only apply in the case of such logos, symbols, and marks for which the Commission has published in the Federal Register a notification of certification.

SEC. 7. (a) There are hereby authorized to be appropriated $4,000,000 to carry out the purposes of this joint resolution through 1987.

(b) An annual report of the activities of the Commission, including an accounting of funds received and expended, shall be furnished by the Commission to the Congress. A final report shall be made to the Congress no later than April 31, 1988, upon which date the Commission shall terminate.

SEC. 8. In carrying out the purposes of this joint resolution, the Commission is authorized to provide for—

(1) the preparation, distribution, dissemination, exhibition, and sale of historical, commemorative, and informational materials and objects which will contribute

to public awareness of, and interest in, the bicentennial;

(2) competitions, commissions, and awards for historical, scholarly, artistic, literary, musical, and other works programs, and projects relating to the bicentennial; and

(3) a bicentennial calendar or register of programs and projects, and in other ways provide a central clearinghouse for information and coordination regarding dates, events, places, documents, artifacts, and personalities of bicentennial historical and commemorative significance.

SEC. 9. The Commission is authorized to carry out a program of grants-in-aid in furtherance of the purposes of this joint resolution. The Commission shall, subject to such regulations as it may prescribe—

(1) make grants for not more than 50 percent of the total cost of a program or project, to nonprofit entities, including States and their political subdivisions, territories, the District of Columbia, and the Commonwealth of Puerto Rico, to assist in the development and support of bicentennial programs and projects; and

(2) make grants of money or property in any case in which—

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(A) the money or property is donated, bequeathed, or devised to the Commission for a bicentennial program or project; and

(B) the Commission accepts such money or property for purposes of assisting a specified nonprofit entity, including States and their political subdivisions, territories, the District of Columbia, and the Commonwealth of Puerto Rico.

The Commission shall, in addition to the grant of the donated, bequeathed, or devised money or property, grant an amount of money not to exceed the value of the donation, bequest, or devise, if the recipient agrees to match the combined value of the grant for such bicentennial program or project.

SEC. 10. Appropriations or other funds available to any Government department or agency for purposes related to or in furtherance of the bicentennial commemoration may be transferred to the Commission. Similarly the Commission may transfer appropriations or other funds to any Government department or agency for such purposes.

97TH CONGRESS
1ST SESSION

S. 477

To establish a commission to encourage, plan, develop, and coordinate the commemoration of the bicentennial of the Constitution.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 1981

Mr. MATHIAS (for himself, Mr. ROTH, Mr. PELL, Mr. HARRY F. BYRD, JR., and Mr. NUNN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To establish a commission to encourage, plan, develop, and coordinate the commemoration of the bicentennial of the Constitution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as this Nation approaches the bicentennial of the adoption of its Constitution and the historic events preceding and associated with its preparation and ratification (events having a profound influence throughout the world and a major significance in the development of our national heritage of individual liberty, representative government, and equal and in-

alienable rights) it is appropriate and desirable to provide for the observation and commemoration of this anniversary and these events through local, State, national, and international activities encouraged, planned, developed, and coordinated by a national commission.

SEC. 2. There is established a commission to be known as the Commission for the Commemoration of the Bicentennial of the United States Constitution (hereafter in this Act referred to as the "Commission") to encourage, plan, develop, and coordinate the commemoration of the bicentennial of the Constitution.

SEC. 3. (a)(1) The Commission shall prepare an overall program for commemorating the bicentennial of the Constitution and shall encourage, plan, develop, and coordinate observances and activities commemorating the historic events that preceded and are associated with the Constitution.

(2) In preparing its plans and programs, the Commission shall consider any related plans and programs developed by State, local, and private groups and may designate special committees of such groups to plan, develop, and coordinate specific activities.

(b) In carrying out this Act, the Commission shall emphasize the constitutional values, ideals, and principles which have been important in the development of American democ-

racy, in influencing ideas throughout the world, and in advancing mankind's quest for freedom.

SEC. 4. (a) The Commission shall consist of—

(1) four members appointed by the President from among Members of the Senate recommended to the President by the President of the Senate;

(2) four members appointed by the President from among Members of the House of Representatives recommended to the President by the Speaker of the House;

(3) nineteen members appointed by the President (A) after consulting the American Historical Association; the American Political Science Association; the Institute of Early American History and Culture; the American Association for State and Local History; the Society of American Archivists; the American Library Association; the American Association of Museums; the National Education Association; the National Council for the Social Studies; the Bicentennial Council of the Thirteen Original States Fund, Incorporated; the Daughters of the American Revolution; the National Conference of Mayors; the National Conference of State Legislators; the National Governors' Association; the American Bar Association; and (B) after considering the contributions by the Nation's youth, women, el-

derly, racial and ethnic minorities, artists, craftsmen, and learned professionals to the writing and adoption of the Constitution; and

(4) as ex officio members, the Chief Justice of the United States, the Secretary of State, the Attorney General, the Secretary of the Interior, the Secretary of Defense, the Secretary of Health and Human Services; the Librarian of Congress, the Secretary of the Smithsonian Institution, the Archivist of the United States, the Chairman of the Federal Council on the Arts and Humanities, the Chairman of the National Endowment for the Arts, and the Chairman of the National Endowment for the Humanities.

(b) The Chairman of the Commission shall be designated by the President from among the members appointed pursuant to paragraph (3) of subsection (a).

(c) Members of the Commission shall be appointed for the life of the Commission. An individual appointed as a member pursuant to paragraph (1), (2), or (4), shall retain membership on the Commission only while the individual maintains the status which is the basis of such membership.

(d) A vacancy in the Commission shall be filled in the manner in which the original appointment was made. A member may retain membership on the Commission until his successor has been appointed.

SEC. 5. (a) Members of the Commission shall receive no pay on account of their service on the Commission.

(b) Subject to the availability of appropriations, while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

SEC. 6. (a) The Commission shall appoint a Director who shall be paid not to exceed the rate of basic pay in effect for level V of the Executive Schedule.

(b)(1) In addition, the Commission may appoint a staff consisting of—

(A) not more than ten staff members before October 1, 1982; and

(B) not more than fifteen staff members after September 30, 1982.

(2) Personnel appointed under paragraph (1) of this subsection shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed $100 per diem.

SEC. 7. (a)(1) In fulfilling its responsibilities, the Commission shall consult with, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies, State and local public bodies, learned societies, and historical, patriotic, philanthropic, civic, and professional organizations. All Federal departments and agencies shall cooperate with the Commission in encouraging, planning, developing, and coordinating appropriate commemorative activities.

(2) The Chairman of the Federal Council on the Arts and the Humanities, the Chairman of the National Endowment for the Arts, and the Chairman of the National Endowment for the Humanities shall cooperate with the Commission in the encouragement and the coordination of scholarly works and presentations focusing on the history, culture, and political thought of the constitutional and early national periods.

(3) The Librarian of Congress, the Secretary of the Smithsonian Institution, and the Archivist of the United States shall cooperate with the Commission in the development and the display of exhibits and collections and in the

development of bibliographies, catalogs, and other materials relevant to the development, ratification, and implementation of the Constitution.

(b) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(c) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8. (a) The Commission may accept, use, and dispose of donations of money, property, or personal services.

(b) The Commission may for purposes of preservation (in consultation with the Librarian of Congress, the Secretary of the Smithsonian Institution, the Archivist of the United States, and the Administrator of General Services) deposit in any National, State, or local library or museum any book manuscript, miscellaneous printed matter, memorabilia, relic, or other material, which relates to the constitutional period and which was donated to the Commission.

SEC. 9. (a) The Commission shall submit to the President and the Congress not later than May 1 of each year through calendar year 1990 an annual report on the Commission's progress in encouraging, planning, developing, and coordinating the commemoration of the bicentennial of the Constitution, including any recommendation by the Commission

for legislation needed to encourage, plan, develop, and coordinate the commemoration.

(b)(1) The Commission shall submit to the President not later than May 1, 1985, a report including the Commission's recommendations and the plans of Federal, State, and local governments and private groups for the commemoration of the bicentennial of the Constitution.

(2) The report submitted pursuant to this subsection may recommend—

(A) the preparation, production, publication, and distribution of books, pamphlets, films, video tapes, and other educational materials focusing on the history, culture, and political thought of the period of the American Revolution and the beginning of the Nation;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other programs; and

(D) programs for commemorating the anniversaries of the Philadelphia Convention, of the publication of the Constitution, of the ratification of the Constitution, and of the meeting of the First Congress.

(3) The President shall transmit the report submitted pursuant to this subsection to the Congress together with the President's comments and a report on administrative actions

to be taken by the executive branch to commemorate the bicentennial of the Constitution.

(c) The Commission shall then submit to the President not later than May 1, 1991, a final report detailing the Commission's activities with an analysis of the functions and commemorations undertaken by Federal, State, and local governments and private groups for the various anniversaries connected with the preparation, adoption, ratification, and implementation of the Constitution of the United States.

SEC. 10. (a) The Commission shall cease to exist on December 31, 1991.

(b) Any property which the Commission owns on December 31, 1991, may be used by the Secretary of the Interior for purposes of the National Park Service or may be disposed of as excess or surplus property.

SEC. 11. There are authorized to be appropriated to carry out this Act $350,000 for the fiscal year ending on September 30, 1982, and such additional amounts as may be necessary for subsequent fiscal years.

97TH CONGRESS
1ST SESSION

S. 1631

To establish a Presidential Commission on the Bicentennial of the United States Constitution.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17 (legislative day, SEPTEMBER 9), 1981

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To establish a Presidential Commission on the Bicentennial of the United States Constitution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established the President's Commission on the Bicentennial of the United States Constitution (hereinafter referred to as the "Commission").

MEMBERSHIP OF THE COMMISSION

SEC. 2. (a) The Commission shall be composed of seventeen members appointed by the President. No more than nine members may be identified with the same political party.

Such members shall be chosen to represent the broad spectrum of the Nation's people, and one member shall be designated as the Chairman by the President.

(b) Nine members of the Commission shall constitute a quorum. Six members shall be sufficient to hold hearings.

(c) The members of the Commission shall receive no compensation for their services. Members of the Commission shall be reimbursed for all expenses incurred by them in the performance of their duties as members.

(d) Any vacancy on the Commission shall not affect its powers. Vacancies shall be filled in the same manner in which the original appointments were made.

DUTIES OF THE COMMISSION

SEC. 3. (a) The Commission shall—

(1) investigate and evaluate ways of commemorating the two hundredth anniversary of the framing of the Constitution of the United States;

(2) plan and coordinate observances and activities commemorating the events culminating in the framing of the Constitution, particularly in communities and locations closely associated with such events;

(3) encourage and provide educational programs to increase public understanding of the issues, problems, debates, and individuals involved in framing the Constitution; and

(4) promote through scholarly studies and other means understanding of the contributions of the Constitutional Convention and the Constitution to the American political system, both as a source of governmental authority and as a limit on such authority, through study of the papers of James Madison, Alexander Hamilton, and other persons involved in the framing of the Constitution.

(b) In fulfilling its responsibilities, the Commission is authorized and directed to consult, cooperate with, and seek advice and assistance from, appropriate Federal departments and agencies, State and local public bodies, learned societies, and historical, patriotic, philanthropic, civic, professional, and related organizations. Such Federal departments and agencies shall cooperate with the Commission in planning, encouraging, developing, and coordinating appropriate commemorative activities.

DIRECTOR AND PERSONNEL OF THE COMMISSION

SEC. 4. (a) The Commission shall have a Director appointed by the Commission without regard to section 5311(b) of title 5, United States Code. The Director shall be paid at a rate not to exceed the rate of basic pay in effect from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) The Commission may appoint, without regard to section 5311(b) of title 5, United States Code, personnel the Commission deems to be appropriate. Such personnel may be paid at a rate not to exceed the rate of basic pay in effect from time to time for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(c) Except as provided in subsection (a) and subsection (b), the Director of the Commission and any personnel of the Commission shall be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(d) The Commission may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at a rate of pay not to exceed the rate of basic pay in effect from time to time for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(e) Section 311 of the Civil Service Reform Act of 1978 shall not apply with respect to the employment of individuals by the Commission.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any member thereof, may, for the purpose

of carrying out the provisions of this Act take such action as is authorized by this Act.

(b) The Commission may accept, use, and dispose of donations of property or services.

(c) The Commission may procure supplies, services, and property, and make contracts.

(d) For purposes of transmitting official mail, members of the Commission shall be deemed to be officers of the United States.

(e) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

REPORT AND TERMINATION OF THE COMMISSION

SEC. 6. (a) Not later than two years after the date of enactment of this Act, the Commission shall submit to the President and to each House of Congress a comprehensive report incorporating a plan for commemorating the framing of the Constitution and related events. This report may recommend—

(1) the production, publication, and distribution of books, pamphlets, films, and other educational materials focusing on the history, culture, and political thought of the period of the United States Constitution;

(2) bibliographical and documentary projects and publications;

(3) conferences, convocations, lectures, seminars, and other programs;

(4) the development of libraries, museums, historic sites, and exhibits, including mobile exhibits;

(5) ceremonies and celebrations commemorating specific events;

(6) programs and activities focusing on the national and international significance of the United States Constitution, and its implications for present and future generations;

(7) the issuance of commemorative coins, medals, certificates of recognition, and stamps; and

(8) any other programs and activities appropriate to the achievement of the objectives set forth in subsection (a) of section 3.

(b) The Commission shall terminate thirty days after the submission of the report required by subsection (a).

AUTHORIZATION

SEC. 7. There are authorized to be appropriated without fiscal year limitations $1,000,000 to carry out the purposes of this Act.

Senator HATCH. I look forward to the views of each of our distinguished participants this morning. We have an excellent group of witnesses, each of whom has strong feelings about the Constitution and each of whom has given considerable thought to the issue before us.

Therefore, without further delay, we will call on the Honorable Charles Mathias, U.S. Senator from the State of Maryland, the sponsor of one of the two bills before us. We express our appreciation for the leadership you are showing in this area, as you have in many areas, and turn the time over to you now, Senator Mathias.

STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A U.S. SENATOR FROM THE STATE OF MARYLAND

Senator MATHIAS. Thank you very much, Mr. Chairman.

I have a statement, and I would ask consent that my statement may be included in the record.

Senator HATCH. Without objection it will be included in the record in full at the completion of the oral testimony.

Senator MATHIAS. I will comment briefly on the legislation.

I would really like to say just a few words about the purpose of this legislation—why it is not only a good idea, but why it is necessary.

There was for a long time in the United States a school of thought that the Convention of 1787 was inspired by divine intervention and that, in fact, some sudden inspiration came upon the delegates to that convention and invested them with a kind of superhuman knowledge that enabled them to write the great contract which we call our Constitution.

I think most of us believe that there is divine guidance in most human activity, so I would not say that there was not divine intervention at Philadelphia. However, the fact is that the forging of the Constitution was the work of human beings. It was the work of human beings who were able to do that job because they were prepared to do it and because they knew the experience of the human race in dealing with problems of government, authority, power, and conflict. They were able to distill their knowledge of the history of mankind in a way that resulted in the provisions of the Constitution.

They had obviously read Herodotus who described the principle of the independence of judges—the lifetime appointment of judges so that they could render impartial judgments—which was a practice among the ancient Persians. They had read the "Spirit of the Laws" by Montesquieu. They knew Locke; they knew all of the great authors of both political theory and historical fact.

It is as the result of their knowledge and their preparation that we have a Constitution.

It is, as the chairman said, a great Constitution; but it is not a self-executing contract. It has to be implemented day by day by the men and women of the United States of America. It has to be executed by each generation.

We cannot implement the Constitution in the spirit in which it was written unless our knowledge of it is as intimate as the knowledge of the members of the Constitutional Convention.

We cannot execute the provisions of the Constitution unless we understand the underlying principles which were so familiar to the framers of the Constitution.

Issues present themselves which demand resolution against the framework of the Constitution. We will be inadequate to the job of resolving those issues unless we know as much about the Constitution as the delegates to the Convention who wrote it.

Therefore, on Constitution Day it is vital that we stimulate interest—not only in the words of the Constitution and in the provisions of the Constitution but in its origins and antecedents and its spirit. That really, Mr. Chairman, is the purpose of this bill.

Senator HATCH. Thank you, Senator Mathias.

As you know, I have introduced a bill relevant to this issue, which is before your Rules Committee. Senate Resolution 84 would require that all bills and resolutions introduced in this body contain a statement of constitutional authority. Do you have any views on this?

Senator MATHIAS. It might reduce the volume of legislation, Mr. Chairman.

Senator HATCH. Then I think it appropriate to recommend that the Rules Committee report Senate Resolution 84 out.

Senator MATHIAS. We will give it prompt consideration.

Senator HATCH. Thank you, Senator Mathias. I would further question you, however, I know that your schedule is a busy one.

Senator MATHIAS. Before I leave, Mr. Chairman, let me just say that you can anticipate a useful and pleasant experience this morning because you will have several Marylanders appearing before you.

One, in particular, Ms. Marna Tucker, is a lawyer and a member of distinction of the Maryland bar whom I particularly commend to the committee.

Senator HATCH. Thank you, Senator. I appreciate your being here.

[The prepared statement of Senator Mathias follows:]

PREPARED STATEMENT OF SENATOR CHARLES MCC. MATHIAS

MR. CHAIRMAN, I WELCOME THE OPPORTUNITY TO APPEAR TODAY AS THE SENATE JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION BEGINS ITS EXAMINATION OF PROPOSALS, INCLUDING MY OWN, S. 477, TO COMMEMORATE THE BICENTENNIAL OF THE CONSTITUTION OF THE UNITED STATES. IT IS ESPECIALLY FITTING THAT THESE HEARINGS SHOULD BEGIN TODAY ON THE 194TH ANNIVERSARY OF THE SIGNING OF THE CONSTITUTION BY THE DELEGATES TO THE CONSTITUTIONAL CONVENTION.

ON SEPTEMBER 17, 1787, THE DELEGATES TO OUR CONSTITUTIONAL CONVENTION MET IN PHILADELPHIA FOR THE LAST TIME. THEY HAD COME TO PHILADELPHIA IN MAY OF THAT YEAR TO REVISE THE ARTICLES OF CONFEDERATION. WHEN THEY ASSEMBLED ON THIS DATE, 194 YEARS AGO, HOWEVER, IT WAS NOT A REVISION OF THE ARTICLES THAT WAS BEFORE THEM FOR THEIR SIGNATURES, BUT AN ENTIRELY NEW NATIONAL CHARTER.

WITH THE PASSAGE OF TIME, THE MIRACULOUS ACHIEVEMENT OF THE FOUNDING FATHERS HAS BECOME APPARENT; THEY HAVE BEEN VINDICATED FOR TAKING SWEEPING ACTIONS THAT, FROM LESSER MEN, WOULD HAVE BEEN ULTRA VIRES. BUT AT THE TIME THE DELEGATES GATHERED TO APPEND THEIR SIGNATURES TO THE PROPOSED CONSTITUTION THE SUCCESS OF THEIR ENDEAVOR WAS FAR FROM CERTAIN. IN FACT, DOUBTS EXISTED AMONG THE DELEGATES THEMSELVES. THREE OF THEM, EDMUND RANDOLPH, ELBRIDGE GERRY AND GEORGE MASON, STATED THAT THEY COULD NOT IN GOOD CONSCIENCE GIVE APPROVAL TO THE PROPOSAL AND THEY LEFT THE CONVENTION WITHOUT SIGNING. OTHERS SIGNED, BUT VIEWED THE CONSTITUTION AS A STOPGAP MEASURE, FULLY EXPECTING THAT ANOTHER CONVENTION WOULD BE CALLED IN THE NEAR FUTURE. DESPITE THESE DOUBTS, THE CONSTITUTION WAS SIGNED BY ALL THE REMAINING DELEGATES ON SEPTEMBER 17, 1787 AND SENT ON TO THE INDIVIDUAL STATES FOR RATIFICATION.

THE OVERALL MOOD OF THE DELEGATES, AS THEY COMPLETED THEIR WORK IN PHILADELPHIA, WAS PERHAPS BEST REFLECTED BY BENJAMIN FRANKLIN:

> SIR, I AGREE TO THIS CONSTITUTION WITH ALL ITS FAULTS, IF THEY ARE SUCH; BECAUSE I THINK A GENERAL GOVERNMENT NECESSARY FOR US, AND THERE IS NO FORM

> OF GOVERNMENT BUT WHAT MAY BE A BLESSING TO THE PEOPLE IF WELL ADMINISTERED, ... I DOUBT TOO WHETHER ANY OTHER CONVENTION WE CAN OBTAIN, MAY BE ABLE TO MAKE A BETTER CONSTITUTION. FOR WHEN YOU ASSEMBLE A NUMBER OF MEN TO HAVE THE ADVANTAGE OF THEIR JOINT WISDOM, YOU INEVITABLY ASSEMBLE WITH THOSE MEN, ALL THEIR PREJUDICES, THEIR PASSIONS, THEIR ERRORS OF OPINION, THEIR LOCAL INTERESTS, AND THEIR SELFISH VIEWS. FROM SUCH AN ASSEMBLY CAN A PERFECT PRODUCTION BE EXPECTED? IT THEREFORE ASTONISHES ME, SIR, TO FIND THIS SYSTEM APPROACHING SO NEAR TO PERFECTION AS IT DOES; ... THUS I CONSENT, SIR, TO THIS CONSTITUTION BECAUSE I EXPECT NO BETTER, AND BECAUSE I AM NOT SURE THAT IT IS NOT THE BEST.

THE DELEGATES NEED NOT HAVE WORRIED OVER THEIR FINAL PRODUCT. TIME HAS PROVEN THAT BENJAMIN FRANKLIN AND HIS COLLEAGUES IN PHILADELPHIA DID THEIR JOB SUPERBLY WELL. THEY PERFORMED THE MONUMENTAL TASK OF PRODUCING OUR CONSTITUTION, A DOCUMENT WHICH WAS INTENDED TO "ENDURE FOR AGES TO COME AND CONSEQUENTLY BE ADAPTED TO VARIOUS CRISES IN HUMAN AFFAIRS." AND, AS CHIEF JUSTICE MARSHALL FORESAW, IT HAS ENDURED. IN FACT, JUST SIX YEARS FROM TODAY THIS NATION WILL COMMEMORATE THE 200TH ANNIVERSARY OF THE SIGNING OF THE CONSTITUTION. IF WE ARE TO HAVE AN INTELLIGENT AND THOUGHT-PROVOKING COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION, IT IS URGENT THAT WE LAY THE GROUNDWORK IMMEDIATELY. OUR TASK -- AND THERE IS NONE MORE IMPORTANT -- IS TO DEVISE AN EFFECTIVE VEHICLE FOR PLANNING AND COORDINATING THE TOTAL EFFORT AND ALSO TO DETERMINE WHAT ROLE THE FEDERAL GOVERNMENT SHOULD PLAY IN THE OBSERVANCE.

THE BICENTENNIAL OBSERVANCE PROVIDES AN OCCASION FOR ALL AMERICANS TO REFLECT UPON THE UNPARALLELED ACHIEVEMENT OF OUR FOUNDING FATHERS IN DEVELOPING THIS UNIQUE DOCUMENT -- OUR RICHEST INHERITANCE AND OUR LEGACY TO THE FUTURE. I HOPE THAT WE WILL BE ABLE TO TRANSCEND THE MERE COMMEMORATION OF HISTORIC EVENTS AND STIMULATE PUBLIC THOUGHT AND DISCUSSION ON THE CONSTITUTIONAL ISSUES OF CONCERN TO THE FUTURE OF OUR COUNTRY, AND ON OUR CONSTITUTIONAL SYSTEM, AND TO EXAMINE THE IMPLICATIONS OF THE TECHNOLOGICAL AGE FOR AMERICAN FREEDOM AND DEMOCRACY.

THE BICENTENNIAL PERIOD GIVES US AN OPPORTUNITY TO RAISE THE LEVEL OF THE AMERICAN CONSCIOUSNESS ABOUT THE FUNDAMENTAL IMPORTANCE OF THE PHILADELPHIA CONVENTION AND THE CONTENT AND

MEANING OF THE CONSTITUTION. IF THE EXPERIENCE WITH THE BICENTENNIAL OF THE DECLARATION OF INDEPENDENCE IS ANY GUIDE, THERE IS SURELY A NEED TO PROVIDE LARGE SEGMENTS OF THE GENERAL PUBLIC WITH A REFRESHER COURSE IN THE SIGNIFICANCE OF THE DATE 1787 AND OF THE CONSTITUTION ITSELF. JUST PRIOR TO OUR BICENTENNIAL CELEBRATION IN 1976, A SURVEY CONDUCTED BY A 7TH GRADE BICENTENNIAL STUDY CLASS IN PHOENIX, ARIZONA, REVEALED THAT OF ALMOST 3,000 ADULTS QUESTIONED, LESS THAN HALF COULD IDENTIFY A FAMOUS QUOTE FROM THE DECLARATION OF INDEPENDENCE. SOME ATTRIBUTED IT TO EDGAR ALLAN POE, OTHERS THOUGHT IT CAME FROM THE BIBLE, THE BOY SCOUT OATH, PATRICK HENRY, ABRAHAM LINCOLN, OR JOHN F. KENNEDY. I TREMBLE TO THINK WHAT A SIMILAR SURVEY WOULD REVEAL ABOUT OUR KNOWLEDGE OF THE CONSTITUTION. I AM CERTAIN THAT THE AMERICAN PEOPLE WOULD BE WELL SERVED IF, OVER THE NEXT SIX YEARS, WE REEXAMINE THE CONTENT AND HISTORY OF THE CONSTITUTION AND REVEAL IT AS A LIVING, VIBRANT DOCUMENT, AND NOT SOME ARCANE VESTIGE OF A PAST OUTGROWN.

I BELIEVE THAT CONGRESS HAS A RESPONSIBILITY TO ENACT LEGISLATION TO HELP INSURE THAT SUCH A COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION COMES ABOUT. FOR THE PAST SIX YEARS, I HAVE BEEN SPONSORING LEGISLATION TO ACHIEVE THAT PURPOSE. DURING THE 94TH CONGRESS, I MADE TWO ATTEMPTS. ON MARCH 7, 1975, I INTRODUCED S. 1006 IN WHICH I TRIED TO EXTEND THE AUTHORITY OF THE AMERICAN CONSTITUTION BICENTENNIAL COMMISSION THROUGH 1989 TO ENCOMPASS THE CONSTITUTIONAL ERA AS WELL. MY SECOND BILL, S. 3100, INTRODUCED A YEAR LATER, WOULD HAVE EMPOWERED A 15-MEMBER BOARD, APPOINTED BY THE PRESIDENT, TO SUPPORT PROJECTS DESIGNED TO IMPROVE OUR UNDERSTANDING OF OUR CONSTITUTIONAL HERITAGE. MEANWHILE, WE HAVE LOST VALUABLE TIME. NOW, BASED ON THAT EXPERIENCE AND FURTHER CONSULTATION AND REFLECTION, I HAVE CONCLUDED THAT WE NEED AN APPROACH THAT WILL INVOLVE A BROAD SPECTRUM OF INTERESTED INDIVIDUALS AND PROFESSIONAL, CIVIC, HISTORICAL, RELIGIOUS, AND SOCIAL ORGANIZATIONS OF ALL SORTS. IN CELEBRATING THE BIRTH AND EVOLUTION OF

OUR CONSTITUTION, AFTER ALL, WE CELEBRATE THE TRIUMPH OF A PHILOSOPHICAL ORDER THAT NOT ONLY ACCOMMODATES BUT NURTURES DIVERSITY. I THINK IT PROPER AND RIGHT THAT OUR CELEBRATIONS REFLECT THIS RICH DIVERSITY.

THE FEDERAL GOVERNMENT CAN COORDINATE SUCH AN OBSERVANCE BY PROVIDING A CLEAR PURPOSE AND GUIDELINES FOR THE OCCASION. MY BILL S. 477 DOES JUST THAT. BASICALLY IT WOULD:

-- CREATE THE COMMISSION FOR THE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION TO COORDINATE AN OVERALL PROGRAM BY FEDERAL, STATE, LOCAL GOVERNMENTS, AND PUBLIC AND PRIVATE GROUPS FOR COMMEMORATING THE 200TH ANNIVERSARY OF THE CONSTITUTION.

-- PROVIDE THAT THE MEMBERSHIP OF THE COMMISSION SHALL BE APPOINTED BY THE PRESIDENT AND SHALL CONSIST OF 23 MEMBERS DRAWN FROM BOTH HOUSES OF CONGRESS AND OTHER INDIVIDUALS FROM THROUGHOUT THE NATION WHO HAVE A SPECIAL INTEREST IN A FITTING COMMEMORATION OF THE 200TH ANNIVERSARY OF THE CREATION, RATIFICATION, AND IMPLEMENTATION OF THE CONSTITUTION.

-- REQUIRE THAT THE COMMISSION SUBMIT AN ANNUAL REPORT TO THE CONGRESS AND THE PRESIDENT ON THE COMMISSION'S PROGRESS IN ENCOURAGING, PLANNING, DEVELOPING, AND COORDINATING THE OBSERVANCE AND NOT LATER THAN MAY 30, 1985, THE COMMISSION SHALL RECOMMEND TO THE CONGRESS AND THE PRESIDENT AN OVERALL PLAN FOR FEDERAL OBSERVANCE OF THE BICENTENNIAL OF THE CONSTITUTION.

-- MANDATE THAT NOT LATER THAN MAY 1, 1991, THE COMMISSION SHALL FILE A FINAL REPORT DETAILING THE COMMISSION'S ACTIVITIES WITH AN ANALYSIS OF THE FUNCTIONS UNDERTAKEN BY FEDERAL, STATE, LOCAL GOVERNMENTS AND PRIVATE GROUPS FOR THE VARIOUS COMMEMORATIONS.

MR. CHAIRMAN, I AM CONVINCED THAT MY BILL, S. 477, IS AN APPROPRIATE VEHICLE FOR A THOUGHTFUL AND EFFECTIVE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION. THIS LEGISLATION, IF ENACTED, WILL HELP INSURE A COMMEMORATION THAT GOES FAR BEYOND MERE FANFARE AND A PROSAIC REVIEW OF HISTORICAL EVENTS. INSTEAD, S. 477 CAN PROVIDE THE FRAMEWORK FOR A DIGNIFIED AND SUBSTANTIVE CELEBRATION OF THE CONSTITUTIONAL BICENTENNIAL, ONE WHICH ENCOURAGES STATE, LOCAL AND PRIVATE INITIATIVE AND PARTICIPATION.

BUT, WHILE I BELIEVE THAT S. 477 CAN DO THE JOB, OTHER THOUGHTFUL PROPOSALS ON THIS SUBJECT HAVE ALSO BEEN MADE. THE TASK BEFORE THIS SUBCOMMITTEE IS TO REVIEW ALL OF THE PAST

AND PRESENT PROPOSALS AND RELATED TESTIMONY AND TO FASHION A VEHICLE SUITABLE TO COMMEMORATE THE AMERICAN CONSTITUTION -- THE DOCUMENT WHICH WILLIAM GLADSTONE, THAT MASTER AMONG MANY MASTERFUL PRIME MINISTERS OF GREAT BRITAIN, PRONOUNCED TO BE THE "MOST WONDERFUL WORK EVER STRUCK OFF AT A GIVEN TIME BY THE BRAIN AND PURPOSE OF MAN."

Senator HATCH. Our next scheduled witness is Gen. William C. Westmoreland. I do not see him present, however.

Therefore we will next call on Prof. Richard B. Morris of Project '87 of the American Historical Association. He is a dear friend of mine, as well as an acknowledged constitutional authority and U.S. historian.

We are happy to have you with us today. We recognize your splendid leadership, not only by the past work you have done in history surrounding the Constitution but in Project '87 as well.

We are happy to have you here.

STATEMENT OF RICHARD B. MORRIS, COCHAIRMAN, PROJECT '87, AMERICAN HISTORICAL ASSOCIATION, AND PROFESSOR OF HISTORY EMERITUS, COLUMBIA UNIVERSITY

Mr. MORRIS. Thank you very much, Senator Hatch, for your kind words.

Exactly 6 years from today, our Constitution will be 200 years old. Shall we pay it obeisance, as we did with the commemoration of the American Revolution's bicentennial, and then quickly forget about the significance of the occasion? Or shall we begin now, and it is none too soon, to lay the groundwork for an appropriate observance?

That forthcoming observance, it goes without saying, will appropriately salute a document which has functioned and endured longer than any other written constitution of any nation of the modern era.

The Constitution's endurance is a tribute to its creators, the greatest masters of statecraft this Nation has ever produced.

Aside from deserving a great birthday celebration, the Constitution's bicentennial provides an occasion for enlightening the Nation about a set of ideas and ruling principles that still govern our society, give it internal cohesion, and legitimate its authority as a beacon for free people everywhere.

We saluted Saratoga and Cowpens and next month Yorktown—those great victories of arms by which Americans wrested their independence from the British Empire.

However, the events we are now considering have a much larger dimension. The framing and ratification of the Constitution, the inauguration of the Federal Government, and the adoption of the Bill of Rights constitute a sequence of events, none of which should be considered in isolation.

Rather, they are the culmination of a series of building blocks toward nationhood: Our first Constitution, the Articles of Confederation, the 200th anniversary of whose ratification this March passed with little national notice; the peace with Great Britain of

1782–83; the Mount Vernon Conference of 1785 and the Annapolis Convention of 1786; the adoption of the Northwest Ordinance of 1787; the great debates and the consummate draftsmanship which the adopted Constitution represented; and the dramatic struggle to obtain its ratification by the States.

The Constitution which emerged from this sequence of events provided a charter of government that imbues the Nation with energy to act while at the same time it restrains its agents from acting out of line. It safeguards our liberties and stands as the framers' testament that ours is a government of laws and not of men.

The Constitution is the mortar that binds the 50-State edifice together under the concept of federalism. It undergirds by a shared set of values a divisive pluralism—whether ethnic, linguistic, or single-issue—and it provides a continuing challenge to all Americans to maintain their commitment to the common good.

It has been a model serving other free societies in shaping their own constitutional systems, and its prestige is worldwide.

The Constitution's importance and relevance is underscored daily by references in the media to concepts like the new federalism, proposals for amending the Constitution and even for calling a second convention, and by constant invocations of the Bill of Rights to check intrusions of government into our private lives and to the due process clause and other constitutional safeguards to maintain a healthy free enterprise system.

Granted the Constitution's central place in American political life, it is hardly disputable that the public's understanding of the Constitution is at a low ebb, and that young people completing high school take with them an abysmal sum of ignorance about the constitutional system of this Nation.

Much is being said about functional illiteracy. At long last, attention is being paid to deficiencies in instruction and to elementary programs such as reading. We are not, however, effectively teaching the Constitution in our schools.

In the two national assessments of performance on citizenship, made first in 1969 and the second as recently as 1976, it was disturbing to find that test scores declined. More disturbing was the revelation that scores on citizenship and social studies declined more than those in reading, writing, and science. The declines for the 17-year-olds were by and large greater than for the 9-year-olds and the 13-year-olds.

Half the students of each age thought that the President could appoint the Members of Congress. Only a little more than half of the 17-year-olds and 32 percent of the 13-year-olds knew that each State has two Senators. Less than half of the 17-year-olds and less than one-fourth of the 13-year-olds knew that appointments to the Supreme Court must be confirmed by the Senate, while a big majority of the 17-year-olds felt that a two-thirds vote by the justices of the Supreme Court was necessary to declare a law unconstitutional. A significant number of both age groups could not even identify the body that could declare a law unconstitutional.

Has this lamentable situation improved since the national assessment of 1976? Not in the least; in fact, it has deteriorated accord-

ing to a recent survey conducted by Teachers College of Columbia University.

It was to contribute to a meaningful commemoration of the Constitution's bicentennial and to enlighten our citizenry of every age about the Constitution and its relevance to their lives that Project '87 was instituted a little more than 4 years ago.

Cosponsored by the American Historical Association, a national learned and professional society which holds its corporate charter from Congress, and the American Political Science Association, Project '87 draws upon the disciplines of history, government, and the law. Governed by a joint committee comprising eight scholars from each of the two societies, Project '87 has widened its orbit of counselors by its distinguished advisory board, headed by Chief Justice Warren E. Burger, and comprising members of the Federal judiciary, the Senate and House Judiciary Committees, lawyers, educators, and representatives of the media.

Project '87 is conceived in three stages:

Stage 1 initiated several years ago, provides grants and fellowships designed to encourage research on the Constitution, the political theory behind it, the turning points in constitutional development, the Constitution's impact on political behavior, and the use of the Constitution as a model for other nations.

In sum, it aims to deepen and broaden the Nation's understanding of its constitutional heritage.

Under this program, close to 50 major or minor research grants have been awarded, as well as seven fellowships. In addition, Project '87 has sponsored constitutionally related conferences, respectively, at Philadelphia, Williamsburg, Houston, Bloomington, Research Triangle Park, and Washington.

The proceedings of the first two conferences have now been published: The first, "The American Constitutional System Under Strong and Weak Parties"; and, the second, "The Constitutional Convention as an Amending Device." The others are in process for publication.

In addition, Project '87 is actively encouraging the publication of significant results obtained from research and fellowship grants it has already awarded. Some of these results have already appeared in law journals or other scholarly periodicals.

Stage 2, which we have recently initiated, is designed to improve the teaching of history and government in the Nation's high schools, community colleges, and adult learning centers.

Stage 3, still in the planning phase but closely interrelated to stage 2, aims at promoting nationwide reflection on the Constitution and to engage the broadest possible participation in grassroots discussions of the constitutional system.

In these tasks, we hope to enlist State and local bar associations, chambers of commerce, universities, the League of Women Voters and similar civic-minded groups, and to utilize the media, both print and audio visual—notably prime time TV—town meetings, and the like to focus on an issue-oriented discourse about the constitutional system and the meaning of the Constitution's bicentennial for all Americans.

Two points should be made about Project '87. First, its funding has been principally from the private sector through private foun-

dations matching a challenge grant from the National Endowment for the Humanities.

Second, Project '87 is nonpartisan, has no axe to grind, and stands for an objective analysis of the Constitution and for the promotion of public discussion in depth. It is not now committed nor does it intend to be committed in the future to taking a particular position on proposals for constitutional change or reform.

At this time, the principal attention of Project '87 is being given to stage 2, the educational effort. That effort was launched a year ago last fall at Bloomington, Ind., at a Project '87 conference of social studies supervisors and teachers, school administrators, and curriculum specialists.

Spurred by their evaluation of the need for raising the level of comprehension of the Constitution as well as of American history and government generally in the school system, Project '87 is now moving on a variety of fronts. It is preparing a source book on the Constitution for use in the schools. It is cooperating on an educational TV program on the Constitution, as well as preparing a prime time TV program for a larger audience. It is laying plans for a series of regional teaching seminars and for a variety of audio visual aids and print materials to enhance the study and understanding of the constitutional system.

Project '87 conceives of the Federal Government's role in the commemoration of the Constitution's bicentennial to be most appropriately as a coordinator of programs operated in the private sector—programs developed in close cooperation with Federal and State governments.

In such fields as education, whether fairly or not, the public may well regard the Government in an advocacy role when it seeks to expound constitutional issues which are the subject of intense current controversy.

If I may be permitted the observation, a nonpartisan organization like Project '87 may be a more appropriate vehicle for objective instruction of constitutional subjects in the schools than a Government commission or agency.

With these assumptions, the two associations are prepared in principle to support the kind of bills that Senators Mathias and Helms have proposed.

Speaking for myself, however, I should prefer the Commission to be so constituted as to give recognition to that separation of powers which the authors of "The Federalist" remind us is essential to free government.

Hence, I would prefer to have a tripartite rather than a Presidential commission for this particular commemoration—one that recognizes the equal and coordinate role under the Constitution of all three branches of government.

Recognizing the limitations of time, I am taking the liberty of submitting a draft bill by way of appendix to these remarks—one which is structured to reflect that coordinate role of the three branches and varies in minor respects from either bill.

I respectfully request that that be included in the record.

Senator HATCH. Without objection, it will be entered in the record.

Mr. MORRIS. With regard to a few matters of detail: The point should be made that Senate Joint Resolution 33 pays obeisance to the tripartite Commission idea—in part, by providing for membership on the Commission of four members of the Federal judiciary to be appointed by the Chief Justice. Whereas, S. 477 gives the Chief Justice an ex-officio membership but provides for no other representation by the judicial branch. That, in my opinion, is a defect in the latter bill which should be repaired.

With regard to terms of service: S. 477 provides for members to serve for the life of the Commission, while Senate Joint Resolution 33 fails to specify the length of the term.

Considering the relatively brief lifespan of the projected Commission, it would seem to me that the former bill insures continuity and consistency in planning and execution, desirable features for such a commission.

With regard to staff: Senate Joint Resolution 33 has the advantage of flexibility, depending on plans and available funding. It prudently avoids nailing down the size of the Commission staff.

On the crucial matter of authorizing grants to nonprofit entities, such an explicit authorization is found in Senate Joint Resolution 33, section 9(1). However, perhaps by oversight, it is absent in S. 477.

That explicit authorization would be preferable to nonprofit groups like Project '87, although speaking for myself, I would prefer the broader phrasing in section 9, corrected to 8, of the appended draft bill.

In sum, Project '87 wishes to commend the Senators for their legislative efforts in behalf of the Constitution's commemoration and respectfully to remind this committee that the hour is late.

Speaking with some special background, having been a member of the original American Revolution Bicentennial Commission, I might point to the 10-year leadtime between legislation and commemoration which was utilized for that commemoration—how wisely I shall not pretend to comment upon.

We do not have 10 years now; we hardly have 6 years.

Action by the Congress for an appropriate nationwide commemoration must be taken at a very early date. Otherwise, the Federal Government, which owes its creation to the Constitution, may have to settle for the role of spectator at its own birthday party while "We, the People," who breathed the breath of life into the Constitution, see that it is properly commemorated.

Thank you.

Senator HATCH. Thank you, Professor Morris. We appreciate the long years of dedication you have spent in working on the Constitution and all of the history surrounding it. Your latest volume on John Jay is presently sitting on my desk.

I support your idea of involving each of the branches of the National Government in the Bicentennial Commission selection process. I think that is an excellent suggestion.

How do we insure further that each of the government branches participates in the subsequent bicentennial activities? What about the role of the States? Should there be certain positions on the Commission assigned for representatives of the States?

Mr. MORRIS. I think the problem there is merely one of unwieldy size. Since you have 50 States, I do not think you can have a representative from the States; you would have to have a representative from each State probably.

To make the Commission effective and not overly large, it seems to me there would have to be some kind of State subcommission set up, working in coordination with the Federal Commission.

I think one of the dangers to be avoided is an oversized commission. I do not think commissions should be any larger than those which are spelled out in the two bills we are talking about—they are not small—if you are expecting people really to meet and effectively work.

Senator HATCH. Could you share with us some of your thoughts on specific kinds of educational activities that could be engaged in or encouraged by the Commission? How specific should any legislation be regarding these educational activities?

Mr. MORRIS. I am glad you used the word "encouraged" rather than "embraced," because I have a fairly strong feeling that the Commission should support educational activities done in the private sector but not actually engage in those educational activities itself because of the very nature of this particular commemoration.

In other words, we are expounding the Constitution. I do not think that the Government is the agency which should expound the Constitution in the schools. I can see all sorts of problems there.

My preference would be that there should not be a competition for funds in this area. The Commission would not seek funds from private sources, for example, for educational purposes, in competition with organizations like Project '87 are working in the private sector.

As you know, funding, of course, will be a crucial problem. I need not point that out.

Senator HATCH. Obviously, there are many aspects of the Constitution which have always been controversial or have become controversial over the years. How do we avoid ideological disputes concerning the Constitution with regard to the Bicentennial? On the other hand, how do we avoid obscuring what the Constitution represents by relating to it only in terms of banalities? What thoughts would you have on this?

Mr. MORRIS. The point is that even in the areas of so-called common agreement there are areas of very great dispute—such as the mere matter of separation of powers. We know which branch of the Government can make a treaty but can only one branch of the Government break a treaty?

I think of a number of areas which were not spelled out by the framers in the original Constitution or in "The Federalist," which are still a matter of dispute in terms of what we call the basic Constitution at the present day.

My only suggestion is that there should be as clear an elucidation or exposition of the interpretations of the Constitution and the living reality of the Constitution as it has developed in our time without necessarily taking sides.

However, I think that we cannot avoid the fact that the Constitution has survived because it is a living document and because it

has, either by amendment or by judicial interpretation or practice, made adjustments to our changing society and to our changing economic and social interests.

To the extent that we can point out that there are areas of controversy, I think we are actually arousing interest in the fact that this is a living issue which can encourage study, research, and debate.

The Constitution has been critically debated from the time of the ratification of the Constitution right to the present day. It has survived. I know that the Constitution will survive any kind of critical examination which may possibly occur in the years up to its commemoration.

Senator HATCH. Thank you, Professor Morris. We appreciate your being with us today.

Mr. MORRIS. Thank you.

[Material follows:]

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REVISED DRAFT
Proposed By

Richard B. Morris,
Gouverneur Morris Professor of History Emeritus,
Columbia University

17 September 1981

A BILL

CONSTITUTION BICENTENNIAL COMMISSION ACT.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Constitution Bicentennial Commission Act of 1981."

SEC. 2. For the period beginning October 1, 1981, and ending September 30, 1991, there shall be established a Commission to be called the American Constitution Bicentennial Commission, the goals of which shall be--

(a) to encourage a sound understanding, thorough study, and nationwide discourse about the Constitution and its capacity to meet new challenges, with appropriate emphasis on the Constitution's unique standing as the world's oldest written Constitution, on the Constitution's values, ideals, and principles which have been central to the development of American democracy and on the Constitution's worldwide impact;

(b) to stimulate the development and dissemination of educational material on constitutional issues both for the general public as well as for schools, colleges, and universities, including print and audio-visual materials; and

(c) to devise, plan, and implement appropriate activities to commemorate the bicentennial of the American Constitution and the inauguration of the federal government during the years 1987-91, and to act as coordinator of Constitution bicentennial programs initiated by the private sector as well as by state and local authorities.

SEC. 3. The American Constitution Bicentennial Commission shall--

(a) under the provisions of section 7 of this Act, award federal grants-in-aid or federal matching funds in such amounts and to such individuals, institutions, or organizations for research, development, and execution of such programs or projects as the Commission determines meet the criteria necessary to aid in the attainment of its goals as set forth in section 2 of this Act;

(b) publish and otherwise encourage the dissemination of the results of the projects or programs assisted by the Commission including print or audio-visual material developed under its supervision or in cooperation with individuals, institutions, or organizations;

(c) cooperate with other public and private (non-profit) organizations and groups in meeting the goals set forth in section 2 of this Act; and

(d) establish such advisory committees as it deems advisable. The Commission may consult with governors, judges, attorneys general, other representatives of state and local governments, bar associations, educators, constitutional experts, and private (non-profit) organizations, as it deems advisable.

SEC. 4. The Commission shall be composed of the following twenty-nine (29) members:

(a) Ex-officio: the President of the United States, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Chief Justice of the United States, and

(b) from the legislative branch: (1) two to be selected from the members of the Senate by the President pro tempore upon the advice of the majority and minority leaders of that body (not to be members of the same party), to serve as long as they shall be members of the Senate, and (2) two to be selected from among the members of the House of Representatives by the Speaker of the House upon the advice of the majority and minority leaders of that body

(not to be members of the same party), to serve as long as they shall be members of the House, and

(c) from the executive branch: four members of the President's Cabinet, including the Secretary of State and the Attorney General, and two others to be selected by the President from among members of the Cabinet to serve for the duration of the President's term of office or for the length of their respective terms as members of the Cabinet, whichever shall end first, and

(d) from the judiciary: four members, including the Chief Justice of the United States ex officio and three other members of the judiciary selected by the Chief Justice upon the advice of the Judicial Conference, and

(e) in addition, the Archivist of the United States and the Librarian of Congress, and

(f) twelve members to be selected from among private citizens who, by reason of their knowledge and expertise, are particularly qualified for service on the Commission, four to be appointed by the President, four to be appointed by the Chief Justice, two to be appointed by the President pro tempore of the Senate upon the advice of the majority and minority leaders of that body, and two to be appointed by the Speaker of the House upon the advice of the majority and minority leaders of that body, such appointees to serve for the life of the Commission, and

(g) a vacancy on the Commission shall be filled in the manner in which the original appointment was made. A member may retain membership on the Commission until his successor has been appointed.

SEC. 5. The Chairman of the Commission shall be elected by the Commission from among its members at the opening session of its first meeting and shall serve at the pleasure of the Commission;

(a) members of the Commission shall serve without pay;

(b) members of the Commission appointed under subsection (f) of Section 4 shall be allowed travel or transportation expenses to

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the same extent that employees serving intermittently in government service are allowed such expenses under section 5703 of title 5, United States Code;

(c) fifteen members of the Commission shall constitute a quorum;

(d) the Commission shall meet at least annually at the call of the chairman or of a majority of the members of the Commission.

SEC. 6. The Commission shall be authorized to employ a staff, including the following--

(a) a director appointed by the Commission who shall be paid not to exceed the rate of basic pay in effect for level V of the executive schedule, under section 5316 of title 5, United States Code;

(b) such additional staff as the director, in consultation with the Commission, shall deem appropriate without regard to section 5311 (b) of title 5, United States Code;

(c) personnel appointed under subsection (b) of this section shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates;

(d) the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 (b) of title 5 of the United States Code, but at rates for individuals not to exceed $100 per diem.

SEC. 7. The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support as the Commission may request.

SEC. 8. Grants by the Commission under section 3 of this Act shall be awarded upon applications submitted in the form and manner prescribed by the Commission except that--

(a) no grant shall be made to other than nonprofit entities;

(b) no part of any grant will be used other than for the project or program for which it was granted; and

(c) no part of any grant shall be used to fund any program which discriminates on the basis of race, religion, sex, age, national origin, or handicap.

SEC. 9. If, after receipt of a grant under this Act and reasonable notice and opportunity for hearing, the Commission determines that the recipient has not complied with provisions of section 9 of this Act, then the amount of such grant shall be a debt owing to the United States, and the Commission shall so notify the recipient.

SEC. 10. The Commission shall submit to the President, Congress, and the Judicial Conference--

(a) by May 1 of each year and through calendar year 1991 an annual report on the Commission's progress in encouraging, planning, developing, and coordinating the bicentennial of the Constitution, including any recommendation by the Commission for legislation needed to encourage, plan, develop, and coordinate the commemoration;

(b) by May 1, 1985--

(1) a report including the Commission's recommendations and the plans of federal, state, and local governments and groups, organizations, and institutions from the private sector for the commemoration of the bicentennial of the Constitution;

(2) the report submitted pursuant to this subsection may recommend the preparation, production, publication, and distribution of books, pamphlets, films, video tapes, television and radio programs, and other materials focusing on the Constitution, its origin, adoption, ratification, and subsequent history, on the inauguration of the federal government, the convening of the First Congress, the enactment of the Judiciary Act, and the passage of the Bill of Rights;

(3) the President, Congress, and the Judicial Conference shall consider the report submitted pursuant to subsection (b) above and transmit to the other branches reports on activities to be recommended by their respective branches to commemorate the bicentennial of the Constitution;

(c) by May 1, 1991, a final report detailing the Commission's activities with an analysis of the functions and commemorations undertaken by federal, state, and local governments and the private sector for the various anniversaries connected with the preparation, adoption, ratification, and implementation of the Constitution of the United States.

SEC. 11. (a) The Commission shall cease to exist on December 31, 1991.

(b) Any property which the Commission owns on December 31, 1991, may be used by the Secretary of the Interior for purposes of the National Park Service or may be disposed of as excess or surplus property.

SEC. 12. There are authorized to be appropriated to carry out this Act $500,000 for the fiscal year ending on September 30, 1982, and such additional amounts as may be necessary for subsequent fiscal years.

Richard B. Morris
Columbia University
New York, New York 10027
March 8, 1981

THE ROLE OF PROJECT '87 IN THE CONSTITUTION'S BICENTENNIAL

In 1987, only six years away, our Constitution will be two hundred years old. Shall we salute it, as we did the American Revolution, and then quickly forget about the significance of the occasion? Of course, the Constitution deserves twenty-one guns, and much more. By that date it will have endured longer than any other constitution of any other nation of modern times. Its endurance is a tribute to its creators, the greatest masters of statecraft this nation has ever produced.

But doesn't it deserve much more than a salute? It is the Constitution that imbues the nation with energy to act while at the same time restraining its agents from acting out of line. It safeguards our liberties and stands as the Framers' testament that ours is a government of laws, not of men. It is not an historical artifact but a living functioning reality. Such a commemoration, as I conceive it, would embrace the Philadelphia Convention's work of 1787, the ratification by the state conventions in 1787-88, the passage of the Judiciary Act in 1789 and the inauguration of the new government that year, and, of course, the adoption of the Bill of Rights in 1791.

It is, above all, the mortar that binds the fifty-state edifice together under the concept of federalism, and the great unifying symbol of this nation. With all the current vogue for ethnicity, non-English language teaching in the schools, quotas, and the divisive pressures of single interest groups, it undergirds by a shared set of values a pluralism run rampant for, as it has been observed, "pluralism that reflects no commitments whatever to the common good is pluralism gone berserk." And the Constitution reflects the common good.

Indeed, while the Constitution is still held in reverential awe, the public's understanding of it is at a low ebb, and its reputation abroad is certainly not as high as it was in the years after World War II, when American constitutional ideas shaped the constitution of Japan and the statute of West Germany. I find it significant that a top bestseller in Japan at the moment is Alvin Toffler's The Third Wave, which takes for granted the obsolescence of America's political and social institutions.

It was to contribute to a meaningful commemoration of the Constitution's bicentennial and to enlighten every citizen of every age about the Constitution and its relevance to their lives and to the approaching third century of America that Project '87 was instituted some four years ago. Co-sponsored by the American Historical Association and the American Political Science Association, Project '87 draws upon the disciplines of history, government, and the law (its Advisory Board comprising a list of prominent jurors, members of the Senate and House Judiciary Committees, lawyers, educators, and representatives of the media).

The Project is conceived in three stages: Stage I, currently well under way, comprises a program of grants and fellowships designed to encourage research on the Constitution, the political theory behind it, the turning points in constitutional evolution, the Constitution's impact on current political behavior, and the use of the Constitution as a model for other nations. Under this program, thirty-five major or minor grants have been awarded and seven fellowships, with a fourth round of awards to be made this month. The Fellows, may I add, have enjoyed the hospitality of the Brookings Institution. In addition, to date six conferences have been held in various parts of the country on constitutional issues. These conferences are being edited for publication, and plans are being also made to encourage publication of significant results from research grants.

This Stage I program, I might add, has been funded by three private foundations matching a challenge grant from the National Endowment for the Humanities.

Stage II, which we are now initiating, is designed to improve the teaching of American history and government in the nation's high schools, community colleges, and adult learning centers; while Stage III, still in the planning phase, aims at promoting a nationwide grassroots discussion and evaluation of the constitutional system, enlisting local bar associations, local Leagues of Women Voters, Chambers of Commerce, trade unions, universities, and similar groups, and utilizing TV, radio, and other audio-visual devices, town meetings, etc., in an issue-oriented discourse about the constitutional system.

As regards all of these stages, the point must be made that Project '87 stands for objective examination and discussion but has not and will not take a position of its own on proposals for constitutional change or reform. It serves as a forum for understanding--not as an interest group.

As we launch the Stage II program, it is with an awareness that perhaps the most critical service that we can perform, with the assistance of the educational system and professional educational associations, is to help fill the tremendous void between the expectations of the school system and the reality of what students graduating from high school take with them about the Constitution. Let us bear in mind, that for 95% at least of high school graduates about to exercise the franchise, this is the last chance they ever get for any formal study of the Constitution. Two national assessments of performance on citizenship were made, the first in 1969, the second as recently as 1976. It was disturbing to find that the test scores declined over that seven-year span, but what is more disturbing is that scores on citizenship and social studies declined more than those in reading, writing, and science. And the declines for the 17-year-olds were by and large greater than those for 9-year-olds and 13-year-olds. Less than

half of the 17-year-olds and less than one-fourth of the 13-year-olds knew that the Senate must approve appointments to the Supreme Court, for example; only two-thirds of the 13-year-olds could even name the Senate as the other part of Congress. Fewer than half of the 13-year-olds and only about three-fourths of the 17-year-olds could give any word or phrase (let alone a sentence) that would remotely be termed an explanation of the basic concept of democracy. Half the students of each age thought that the President could appoint people to Congress; only a little more than half of the 17-year-olds and 32% of the 13-year-olds knew that each state has two Senators; and almost half of the 17-year-olds and 68% of the 13-year-olds were not aware that the number of congressmen from each state in the House of Representatives varies with the state's population. And, as for the Supreme Court, a big majority of the 17-year-olds felt that a two-thirds vote by the Supreme Court justices was necessary to declare a law unconstitutional, and a significant number of 17-year-olds could not identify the body that could declare a law unconstitutional; in fact, one-fourth of the 13-year-olds felt that the President could do so.

A recent survey conducted for Project '87 by Teachers College of Columbia University shows that the situation, if anything, has deteriorated since the national assessment of 1976. Social science supervisors and teachers, and school administrators and curriculum specialists who met with us last fall at Bloomington, Indiana, voiced the unanimous view that action needs to be taken now, that substantive material on the Constitution be added to the school curriculum, that training of teachers in constitutional problems be intensified. Project '87 is considering a multi-phase approach to this problem, including the development of a special educational TV program, regional teaching seminars, improved print materials, etc.

Much as we are committed to having the private sector, supported by resources from the private sector as well, undertake appropriate tasks in the area of broad education on constitutional issues, we do not feel that the federal government can ignore its responsibility to summon forth its prestige and its resources to meet the historic challenge of the bicentennial and thereby insure that the adoption of the great basic charter of this federal union will be appropriately commemorated.

To commemorate the Constitution without a federal presence would be unthinkable, but that presence need not mean an open-ended drain upon the United States Treasury. The national government's involvement is unavoidable. It was the people who gave us the Constitution and it is that document that breathed the breath of life into the three branches of the government. Hence, unavoidably the people and the three branches must be involved. Project '87, as our organization has already indicated in testimony in Congress, favors the creation by Congress of a Commission, including representatives from the three branches, along with public members (to be named by the three branches) -- the lay group comprising, for purposes of discussion, 4 to be named by the President, 4 by the Chief Justice, 2 to be appointed by the President pro tempore of the Senate upon the advice of the majority and minority leaders of that body, and 2 to be appointed by the Speaker of the House upon like advice.

Experience has shown that a nationwide commemoration requires considerable lead time for necessary planning, and our lead time is quickly evaporating. It has been proposed, and I would second the suggestion, that the President early on issue a proclamation setting September 17, 1987 as the Bicentennial of the Constitution Day, thereby setting the stage for appropriate Congressional action. I would also propose that, should a Commission in some appropriate form be agreed upon by Congress, modest funding for initial planning be appropriated, with the idea of de-

fining the scope of the federal government's involvement and a strict determination of what it will cost.

I still feel that the private sector, through organizations like Project '87 and the AEI, has a significant role to play in such a commemoration, but that if the goal is to reach every citizen and to contribute not only to good citizenship by increased understanding of the Constitution's role in the life of all of us but to a sense of national unity in divisive times, the government itself must share some of the responsibility for so large a task.

The objectives of such a Commission might properly be to encourage a sound understanding, through examination and nationwide discourse about the Constitution, the evolution of our federal system of government under the Constitution, and its capacity to meet new challenges. If the Commission is to avoid adding to the overlay of bureaucracy, it should serve as a coordinating body to encourage non-governmental groups to develop relevant programs of education and inquiry which are appropriate to such a bicentennial commemoration -- in other words, what we propose is a cooperative endeavor shared by the public and private sectors. The government's participation and co-sponsorship of such a commemorative program we in Project '87 feel to be in the national interest.

Senator HATCH. Our next witness today is one of the Nation's most distinguished figures, Gen. William C. Westmoreland, former Chief of Staff of the U.S. Army.

His military career is one of the outstanding ones in the history of our Nation.

General Westmoreland, who has had a great deal of experience in testifying before committees of the Congress, is probably new to this committee. We are pleased to have him with us.

Today he is representing an organization, the Council of the Thirteen Original States, that operates the Great American Achievements Program, which has been active in fostering greater public understanding of the U.S. Constitution.

General Westmoreland, we are happy to welcome you to the committee at this time.

STATEMENT OF GEN. WILLIAM C. WESTMORELAND, REPRESENTING THE BICENTENNIAL COUNCIL OF THE THIRTEEN ORIGINAL STATES FUND, INC.

General WESTMORELAND. Thank you, Mr. Chairman.

At the outset, I would like to explain that I intended to be here at 10 o'clock. I have a reputation for being prompt, but the weather is rather nasty. I flew in, and I was at the mercy of the controllers. They got me here safe but late.

Senator HATCH. We understand.

General WESTMORELAND. The principal reason our country has enjoyed its unique success and our citizens have been afforded opportunities greater than any other people in the world is because of the government established by our Founding Fathers at the Constitutional Convention in 1787. The Constitution and the Bill of Rights established a unique tripartite Federal Government of the people with majority rule.

Although there have been other democracies and republics, ours is the only one to stand the test of time and respond to changes in society so that more people have more rights today than at any time in our history.

However, this is no reason for complacency. Many nations have had charters which promised beneficent governments but none of them have been able to maintain long-term stable rule.

All of the American people should be constantly aware of the contents of this magnificent document. But it is important that there be increased attention to the origins, implementation, and operation of the Constitution and the Bill of Rights.

As the 200th anniversary approaches, we have an opportunity to make our citizens aware of the writing, adoption, and ratification of those exalted documents. The Government is only as strong as the people who compose it.

At the same time that more people have more rights than ever before, surveys show that the bedrock of that freedom is less understood now than at any time in our past.

Columnist Theo Lippman, Jr., commented upon this phenomenon recently when writing about events here in the capital. The National Assessment of Educational Progress demonstrated it statistically in its report, "Changes in Political Knowledge and Attitudes, 1968–76."

We have also seen a continued decline in voter participation. This reduction is a sign that people do not understand their Government because it is they in the final analysis are the Government; they have the seat of sovereignty. Few appreciate that the possession of their franchise and its maintenance requires that it be exercised.

As we begin the third century of the United States of America, the American people should renew their knowledge about our heritage and should rededicate themselves to the maintenance of a republic under the Constitution.

In order to encourage this self-study, a number of private organizations have prepared educational programs which examine the Constitution in various ways. I am associated with one of these organizations, the Council of the Thirteen Original States, which operates the great American achievements program.

Mr. A. K. Johnson, Jr., of Georgia, who is here today, is chairman of the board of the council. Dr. W. Robert Higgins of the council staff is also here.

Each year, as part of the great American achievements program, the council holds a conference where scholars, educators, political and public figures, representatives of the media, and other interested individuals come together to examine the relevance of a particular underlying theme of the Constitution and Bill of Rights from its historical origins, through history, to the present.

In previous years, we have studied the concept of unity, the role of the United States in foreign affairs, and the education of a sovereign people.

This year our theme is "United We Stand," the role of the military in a democracy and the place of the citizen soldier in the defense of our country.

From the papers prepared for the conference and the discussions generated at the meeting, the staff of the council, with assistance from specialists and educational consultants, prepares study materials for the use of individuals and groups. More than half of the 13 original States now have some of our study kits in use.

Despite this success, there is no outreach for the great American achievements program beyond the council's area of strength to the other 37 States. Other programs are similarly limited—if not by geography, by interest and association.

Despite the valuable work done by the council and other groups, a fitting and appropriate commemoration of the bicentennial of the Constitution cannot be organized and conducted by a few private organizations operating either alone or in concert. Nor can the State governments undertake the operation of such an important anniversary with its ramifications for our individual freedom and well-being.

The Federal Government must commit itself to the planning, development, and implementation of a fitting commemoration and rededication to the Constitution, Bill of Rights, and the underlying ideas which have made this Nation a great success.

The Federal Government must be involved so that all the people throughout this Nation—from the people in Lexington and Concord, Mass., where the revolution began to the modern-day pioneers on the frontiers of Alaska; from the descendants of the

Jamestown settlers to the Vietnamese boat people; from the citizens of northeastern Maine to the residents of Niihua Island in Hawaii—realize the great heritage of democracy and personal freedom forumulated by the Constitutional Convention in 1787 and protected and strengthened by following generations.

Only when there is a national focus can there be a genuine general commemoration or rededication at the 200th anniversaries of the fundamental documents which have formed and maintained our democratic Government.

Historically, the vehicle created by the Congress for a commemoration or celebration of the anniversary of a significant event in our past has been a commission. There is no centenary date more important to the history of our country than the anniversary of the adoption and ratification of the Constitution and Bill of Rights between 1987 and 1991.

Therefore, the Congress should, I believe, establish a Federal commission to commemorate the bicentennial of the Constitution and Bill of Rights.

Furthermore, if there is one point that I, as a longtime military man have learned, it is that success of any enterprise depends upon adequate planning. There is a need for such Federal action now.

We are currently only 5 years away from the commemorative date for the Constitution and 3 years away from the anniversary of the Mount Vernon Commercial Conference between Virginia and Maryland delegates which led to the monumental meeting of delegates from all the 13 States in Philadelphia May 25, 1787.

Hence, in my opinion, the Federal Government should take timely action to insure that the planning for the bicentennial of the Constitution and Bill of Rights is undertaken.

It should provide leadership for State and local governments in their related planning for the 1987 to 1991 period.

It should assist the various private organizations in coordinating their plans so as to provide optimum involvement with as much cooperation and as little duplication as possible.

It should demonstrate to corporations and foundations the need and importance of providing the financial backing for this anniversary as they so generously supported the bicentennial of the Declaration of Independence.

The Federal Government needs a designated body to serve all of these functions. A commission established by the Congress, the President, and the Chief Justice should not be delayed. Only such a body can provide the leadership which is essential for a successful commemoration.

The inclusion in the commission of individuals who are involved and knowledgeable about the history of the revolutionary and early national periods of our country is recommended.

The necessity of Federal interest in the planning and implementation of a fitting commemoration of the bicentennial of our seminal democratic documents has been known for many years.

Senator Mathias, who has testified here today, introduced a bill to establish a national commission. He introduced this in the 94th Congress as S. 1006.

Senator Bayh and Senator Pell both introduced bicentennial legislation in the 95th Congress—S. 3611 and S. 3628, respectively.

Senator Baker, the Republican leader, and Senator Byrd, the Democratic leader, joined in sponsoring still another bill for a constitutional bicentennial commission in the 96th Congress—Senate Joint Resolution 102.

That bill was matched by a companion—H.R. 4981—in the House of Representatives. It was sponsored by Majority Leader Wright.

I have the honor of serving with many distinguished Americans on the advisory Board of the Great American Achievements Program.

I have had the distinct privilege and a great deal of satisfaction in serving on this advisory board with such individuals as the Honorable Mills E. Godwin, Jr., of Virginia; former Senator Sam J. Ervin, Jr., of North Carolina; the Honorable Walter E. Washington of the District of Columbia; the Honorable Archie K. Davis of North Carolina; Judge Donald Russell of South Carolina; the Honorable John Davis Lodge of Connecticut; Mrs. Eileen Slocum of Rhode Island; the Honorable Elliot L. Richardson of Massachusetts; Senator Abraham Ribicoff of Connecticut; the Honorable Nancy Stevenson, Lieutenant Governor of South Carolina; former Senator Thomas J. McIntyre of New Hampshire; Mr. Howard K. Smith of Maryland; Mrs. Angier Biddle Duke of New York; Mr. Arthur C. Kaufman of Pennsylvania; Mr. Walter A. Hitesman, Jr., of New York; the Honorable Richard J. Hughes of New Jersey; Ambassador U. Alexis Johnson of the District of Columbia; the Honorable Walter R. Peterson, former Governor of New Hampshire; Mr. Jasper Dorsey of Georgia; Mr. John Q. Adams, V, of Massachusetts; and the Honorable Peter H. Frelinghuysen of New Jersey.

Among the board members are five current members of this august body: Senator Harry Byrd of Virginia; Senator Mathias of Maryland; Senator Nunn of Georgia; Senator Pell of Rhode Island; and Senator Roth of Delaware.

This February, they all joined in the sponsorship of a bill "to establish a commission to encourage, plan, develop, and coordinate the commemoration of the bicentennial of the Constitution" which is S. 477.

Senator Jesse Helms has also introduced legislation for such a commission which is Senate Joint Resolution 33.

The bills are very similar. They call for what needs to be done. The Federal Government needs to take action now to assume leadership in the planning for the 200th anniversary of the establishment of our Government.

In my view, the Congress must not allow the bicentennial of the Constitution and Bill of Rights to pass without proper commemoration. The planning for such a 4-year celebration should begin now.

That concludes my statement, Mr. Chairman.

Thank you.

Senator HATCH. Thank you, General. We appreciate your statement.

The only question I have is the following: You have emphasized the 13 States. I do not think you would have any objection to having some representation on the commission, from all 50 States. For instance, my State did not enter the Union until 1896.

General WESTMORELAND. Not in the least. I did not mean to imply that representation on the commission would be confined to representatives of the 13 original States, sir.

Senator HATCH. I did not think so; I just wanted to make that clear.

Thank you so much. We appreciate your coming and appreciate the difficulties you have had in getting here.

General WESTMORELAND. Thank you, sir.

Senator HATCH. Our next witness will be Marna Tucker. She is representing the American Bar Association. Ms. Tucker is chairman of the ABA's Section on Individual Rights and Responsibilities, as well as the chairman of the ABA's Commission on Public Understanding About the Law.

She is a partner in the Washington law firm of Boasberg, Klores, Feldsman & Tucker. She is a former professor of law at Georgetown University.

We are delighted to have you here, and we will look forward to taking your testimony at this time.

STATEMENT OF MARNA S. TUCKER, REPRESENTING THE AMERICAN BAR ASSOCIATION

Ms. TUCKER. Thank you, Mr. Chairman. I am delighted to be here.

I would request consent, if I may, to submit my statement in full for the record. I would then just address the highlights of my remarks.

Senator HATCH. Without objection, it will be placed in the record at the completion of your oral testimony.

Ms. TUCKER. Thank you.

My name is Marna Tucker, and I am currently the chairman of the American Bar Association's Commission on Public Understanding About the Law.

My purpose today is to state the American Bar Association's support for meaningful commemoration of the bicentennial of the Constitution as has been proposed in several bills being considered by this subcommittee.

As you know, and as has been pointed out several times already this morning, there is a widespread lack of public understanding—not only about the Constitution but about Federal, State, and local laws and the legal and political system in general.

A recent major study among schoolchildren from the years 1969 to 1976 regrettably showed declines in their understanding about the structure and function of Government and declines in their willingness to participate in the political system in general.

One only has to review the disappointing low turnout of the newly enfranchised 18 to 20-year-olds over the last three national elections, as well as the spiraling incidence of juvenile crime, to recognize the magnitude of the problem.

Legal illiteracy, however, is not just a problem of the Nation's youth. It is a blot on our adult population as well. A national study which tested the functional literacy of adults in the areas of law and government showed well over half of the population to be below functionally literate in these areas.

The American Bar Association itself has conducted a comprehensive survey on legal needs. We have found that the sophistication of the general public concerning their legal needs and what to do about their personal legal problems is at a very low level also.

Given this troubling state of affairs, the American Bar Association during the past decade has attempted several major programs to, hopefully, promote constitutional and legal literacy among the general public.

Since 1971, our special committee on youth education for citizenship has served as a national catalyst and coordinator for the development of programs and materials in elementary and secondary schools.

You may be familiar with their education in law and juvenile justice program funded by the Office of Juvenile Justice and Delinquency Prevention which is utilizing law-related education to promote legal literacy and reduce juvenile delinquency.

I am pleased to report that an evaluation has been conducted of this program and that the findings suggest that they are accomplishing their goals quite positively.

This special committee is also conducting a special bicentennial project designed to revitalize instruction about the Constitution and the Bill of Rights.

It is because of that project that members of that special committee are not able to join us here today; because at this very moment they are conducting a program, called a leadership seminar, on the bicentennial for 150 project directors of law-related education in Houston, Tex.

The American Bar Association, Commission on Public Understanding About the Law, which I have the privilege of chairing, was recently established by the American Bar Association to promote general understanding among the adult public about their legal rights and obligations and also to promote respect and foster appreciation for the role of law in society.

Like the special committee, we have a major project which is focusing on the Constitution. We have recently received a planning grant from the National Endowment for the Humanities to conduct a model education program on the first amendment in our daily decisionmaking.

Hopefully, we will develop these programs and conduct them in local communities to explain the complex and conflicting principles of the first amendment. We are well on our way to delivering plans for that project.

We are quite proud of these ABA efforts and are encouraged by the bicentennial programs of other organizations in the private sector that are appearing here today.

It is clear, however, that so much more is needed if we are to eradicate the ignorance, disillusionment, and the apathy reflected in the studies that has been presented here today. That is why the passage of bicentennial legislation is so important.

Despite the most concerted efforts of the private sector, the challenge of promoting constitutional literacy can never be adequately addressed without Federal leadership. Such leadership is particularly and uniquely appropriate in this endeavor, for the

Constitution is the law of the entire land and not the law of particular States or particular constituencies.

Moreover, it is important to emphasize the pressing need for a multiyear effort grounded in informative and educational activities. Only in this way can we hope to insure widespread understanding and appreciation of the national treasure we call the Constitution.

To establish the 1980's as a decade devoted to constitutional literacy is one of the most significant contributions we as a people can make to our past and to our future.

The American Bar Association stands ready to be an active participant in this effort.

Senator HATCH. Thank you. We appreciate your very good statement.

I notice that you have been active in ACLU legal activities. It is probably no secret that I am not in agreement with certain conceptions of the ACLU regarding the Constitution—particularly, regarding the Bill of Rights.

How do we avoid creating a commission that interprets the Constitution according to what the ACLU thinks it should be or according to what Senator Hatch thinks it should be, while at the same time avoiding addressing the Constitution purely in terms of meaningless generalities?

Ms. TUCKER. First, Mr. Chairman, I would like to say that the American Bar Association does not have a position on this.

Senator HATCH. I understand.

Ms. TUCKER. I am going to answer this in my personal capacity if I may.

Senator HATCH. That will be fine.

Ms. TUCKER. I would like to repeat part of what Professor Morris said earlier today. I think the answer is that the Constitution is a vibrant document. It has to live and change with the times. That is why it has been amended so few times.

The fact that a commission would have members, hopefully, of many views on how it should be interpreted would lead to the health and vibrancy of the country.

I think there is no one way to read it. Generalities have not been the problem. It grows as our country grows; it has met the needs created by our problems.

The beauty of an adversary system and the beauty of a constitutional system is that all sides of the issue are hopefully brought out and debated and that somewhere in the middle we will continue to grow and continue to respect the law.

Senator HATCH. Thank you so much. We have appreciated your testimony today and appreciate the efforts you have put forth.

Ms. TUCKER. Thank you.

[The prepared statement of Marna Tucker follows:]

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PREPARED STATEMENT OF MARNA S. TUCKER

Dear Mr. Chairman and Members of the Subcommittee:

My name is Marna S. Tucker. I am currently the Chairperson of the American Bar Association Commission on Public Understanding About the Law. I am also a lawyer practicing in Washington, D.C. My purpose today is to state the American Bar Association's support for meaningful commemorations of the Bicentennial of the Constitution, as has been proposed in several bills being considered by this Subcommittee.

As this Subcommittee knows, there is a widespread lack of public understanding not only about the Constitution, but also about federal, state, and local laws, and our legal and political systems. A recent major study on "Changes in Political Knowledge and Attitudes" among school children over the years 1969-1976, for example, showed declines in their knowledge of the structure and functions of government, and in their willingness and capacity to participate in the political process.[1] These findings reaffirm studies conducted during the 1960s which indicated that most social studies courses were neither increasing students' abilities to analyze legal and political issues nor developing their sense of civic efficacy.[2] One only has to review the low turnout of newly-enfranchised 18-20 year old voters during the last three national elections, as well as the spiralling incidence of juvenile crime, to recognize the magnitude of the problem.

Legal illiteracy and low levels of civic efficacy, however, are regrettably not limited to our nation's youth. A national study which tested the functional literacy and competency of adults in law and government (among other areas) found over

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1. National Assessment of Educational Progress, National Center for Education Statistics, U.S. Department of Health, Education, and Welfare, under contract to the Education Commission of the States (March, 1978)
2. Law-Related Education in America: Guidelines for the Future, American Bar Association, p. 1 (1975)

half of those surveyed "functional, but not proficient" or at a level below functional literacy.[3] A comprehensive survey of legal needs recently conducted by the ABA confirmed that consumers of legal services have a low level of sophistication regarding legal problems and what can be done to alleviate them.[4]

Given this troubling state of affairs, the ABA has, during the past decade, instituted several major programs designed to promote constitutional and legal literacy among the general public. Since 1971, our Special Committee on Youth Education for Citizenship has served as a national catalyst and coordinator for the development of programs and materials in elementary and secondary schools. You may be familiar with their Education in Law and Juvenile Justice Program, funded by the Office of Juvenile Justice and Delinquency Prevention, which is utilizing law-related education to both promote legal literacy and reduce juvenile delinquency. I am pleased to report that the evaluation findings on this effort, which is being conducted cooperatively with five other national law-related education projects, indicate significant knowledge gains as well as a positive impact in reducing anti-social behavior among youth.

The Special Committee is also conducting a special Bicentennial project designed to revitalize instruction about the Constitution and Bill of Rights. It is because of that project that Committee representatives are not able to join us here this morning, for they are today convening a Bicentennial Leadership Seminar in Houston for over 150 law-related education project directors from throughout the country.

The ABA Commission on Public Understanding About the Law, which it is my privilege to chair, was recently established to help adult citizens understand their rights and obligations

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3. Adult Performance Level Program, Division of Adult Education, U.S. Office of Education (July, 1977)
4. The Legal Needs of the Public, American Bar Foundation (1977)

under the law, foster an appreciation of the role of law in society, and enable them to deal more effectively with their personal legal affairs. Like the Special Committee, we are currently involved in a special project concerning the Constitution. Under a planning grant from the National Endowment for the Humanities, we are putting together program models on "The First Amendment in Our Daily Decision-Making." As the title suggests, the goal of this program is to introduce the often complex, conflicting principles of the First Amendment in the context of local and individual settings which the general public can relate to and understand. To insure that such issues will be presented in the most effective and stimulating manner, we plan to use a Town Hall format and involve local community leaders representing a diversity of disciplines and interests.

We are quite proud of these ABA efforts, and are encouraged by the Bicentennial programs of other organizations such as the American Political Science Association's and American Historical Association's Project '87. It is clear, however, that more is needed if we as a nation are to reverse the ignorance, disillusionment, and apathy reflected in the studies I noted earlier.

This is why the passage of Bicentennial legislation is so important. Despite the most concerted efforts in the private sector, the challenge of promoting constitutional literacy cannot be adequately addressed without federal leadership. Such leadership is particularly appropriate in this endeavor, for the Constitution is the law of this entire land, not of particular states or constituencies, and it embodies the principles and values which unite us as a nation. Just as the federal Constitution establishes working relationships among the coordinate branches of federal government, between federal and state governments, and between government and the people for the common good, so too can federal legislation uniquely promote constructive public and private activities committed to the shared goal of meaningful commemorations of the Bicentennial of the Constitution.

It is important to emphasize the pressing need for a multi-year effort grounded in informative, educational activities. Only in this way, can we reasonably hope to insure widespread understanding and appreciation of the national treasure which is our Constitution.

To establish the 1980s as a decade devoted to constitutional literacy is one of the greatest contributions we as a people can make to our past and our future. The ABA stands ready to be an active participant in this effort.

On behalf of the American Bar Association, I thank the Chairman and the Subcommittee for permitting us to present these views.

Senator HATCH. Our next witness will be Ronald Hoffman, professor of history at the University of Maryland.

Professor Hoffman is the author of numerous publications on American history and has edited the papers of Charles Carroll, one of the distinguished signers of the Nation's Declaration of Independence.

Professor Hoffman is representing the U.S. Capitol Historical Society this morning for which he serves as symposium director.

We are grateful to have you here, and we look forward to your views.

STATEMENT OF RONALD HOFFMAN, SYMPOSIA DIRECTOR, U.S. CAPITOL HISTORICAL SOCIETY, AND PROFESSOR OF HISTORY, UNIVERSITY OF MARYLAND

Mr. HOFFMAN. Thank you, Mr. Chairman.

First, Mr. Chairman, I would like to request unanimous consent to have the statements of Mr. Fred Schwengel, president of the U.S. Capitol Historical Society, and Mr. Conrad L. Werth, Chairman of the Steering Committee for the Federal Government Bicentennial Era Commemoration, be entered into the record.

Senator HATCH. Without objection, they will be entered.

Your prepared statement will be included in the hearing record at the completion of your oral testimony.

Mr. HOFFMAN. Thank you.

President Fred Schwengel has asked me to inform you of the historical program that the U.S. Capitol Historical Society has undertaken in honor of the approaching bicentennial of the U.S. Constitution.

He has also requested that I convey to you his support, as well as my own, for the establishment of a commission for the commemoration of the Federal Government bicentenary era.

While I will be speaking mainly about the program that I head, I should note that the society produces many fine educational items and sponsors many programs in addition to the one that I direct, particularly the historical calendar which is used throughout schools in the United States and the book, "We the People."

However, let me talk about what I do for the society.

The idea for the U.S. Capitol Historical Society's symposia series grew out of the dissatisfaction of President Schwengel and his executive board, several of whom are your colleagues in Congress, with the superficiality of most of the activities developed to celebrate the bicentennial of the Declaration of Independence.

Deeply concerned at the lack of substantive academic content that characterized the commemoration of that important event in our Nation's history, President Schwengel approached me in 1977 to ask my assistance in creating a series of conferences designed to mark, in an enduring and dignified way, the 200th anniversary of the U.S. Constitution.

The first symposium, sponsored, as are all of the programs in this continuing series, with the cooperation of the U.S. Congress, was held in March 1978 in this room. In terms of attendance and reputation, the success of the symposia series has increased dramatically with each conference. We anticipate a continuation of this response for our fifth meeting scheduled to take place March 18 and 19, 1982.

I hope that you will be interested in reading the detailed report about the U.S. Capitol Historical Society's very worthwhile and highly successful bicentennial symposia series which I have prepared for insertion in the Congressional Record.

Parenthetically, I might add that the quality of the program is attested to by the fact that Prof. Richard B. Morris has consented to be our featured speaker in 1983 at a conference devoted to an examination of the Treaty of Peace.

RECORD OF THE U.S. CAPITOL HISTORICAL SOCIETY

As of March 1982, the society will have provided a format for 49 eminent scholars from the United States and abroad to share their work in the Revolutionary period of American history with their colleagues with over 300 public secondary school students and teachers and with a total general audience of approximately 1,600 persons.

In addition, the society has provided resources in cooperation with the University Press of Virginia to assure a lasting record of these conferences through the publication of the revised proceedings of each meeting. One volume has already appeared and three more are currently in press.

This outstanding track record certainly demonstrates that the U.S. Capitol Historical Society is a voice of trust and experience worthy of attentive consideration with regard to the need for establishing a formal and authoritative Federal commission to oversee the commemoration of the founding of the U.S. Government.

Surely our national dignity and prestige demand that we leave a record of scholarly substance to mark the passage of the 200th year of the drafting of the Constitution.

It is, I might add, to be greatly lamented that we failed to produce any such legacy for the bicentennial of Thomas Jefferson's magnificant Declaration.

THE GEORGE WASHINGTON BICENTENNIAL COMMISSION

I would further like to bring to the committee's attention that an excellent model for such a Federal commission can be found in the relatively recent past. I am specifically referring to the U.S. George Washington Bicentennial Commission established under the chairmanship of President Herbert Hoover as a result of the efforts of Congressman Sol Bloom.

Besides a series of timely commemorative celebrations, one of the commission's many lasting achievements is a 39-volume collection of the writings of George Washington, edited by John C. Fitzpatrick.

If we act now to establish an equally prestigious and qualified commission like the one created during the Hoover administration, which, as you will remember, was also a time of fiscal austerity, we can escape the otherwise certain doom of another trivial and embarrassingly insubstantial celebration.

THE NECESSITY FOR FEDERAL LEADERSHIP

The question that invariably will be raised is whether the Federal Government should assume a responsibility of this nature.

To my mind the answer is yes, for two very obvious reasons:

In the first place, it is, after all, the anniversary of the founding of the National Government that we are celebrating in the bicentennial of the Constitution. Therefore, who else except the National Government can legitimately assume a position of leadership in the endeavor. Certainly this is a matter clearly beyond the scope of State and local governments and private organizations.

Moreover, I believe that the Federal Government does have a vital role to play in the preservation and dissemination of this country's history. Curtailing activities of this nature in the name of economy will only serve to impoverish the minds and spirits of future generations of Americans. Indeed, such economies can even severely impair continuity in the functioning of the Nation's governing institutions.

Allow me to give you a very current and sad example of the kind of legacy that I hope this Congress will not leave the Nation.

CRISIS OF THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Every politician at some time or other refers to the Founding Fathers. President Ronald Reagan, in emphasizing his desire for a renewal of our national spirit, invokes them with unusual frequency. Yet when the President's proposed budget was unveiled earlier this year, he recommended the withdrawal of all grant funds for the National Historical Publications and Records Commission.

As I hope you are aware, this small Agency is responsible for providing indispensable financial support for the preservation and publication of the papers of our most distinguished leaders, including, to name a few, Thomas Jefferson, John Adams, Benjamin Franklin, Alexander Hamilton, and most significant in terms of the Constitution, James Madison and John Marshall.

Indeed, if the President's request is sustained, the papers of Thomas Jefferson may have to cease publication short of Jefferson's Presidency and those of John Marshall will have to be stopped 3 months prior to his accession to the position of Chief Justice.

This may not be the worst of the damage, Mr. Chairman. Last week you and your colleagues participated in the hearings on President Reagan's nomination of Judge Sandra Day O'Connor to the Supreme Court.

NEED FOR FULL LEGISLATIVE HISTORIES

In response to questions regarding the Court's interpretation of the Constitution and other statute laws, Judge O'Connor repeatedly emphasized the great value of full legislative histories as references for the justices in their efforts to determine the nature and intent of the lawmakers.

In her view, and I heard no dissent from the Senate Judiciary Committee, such histories are indispensable tools for the Court in establishing a correct and intelligent construction of the law and the intentions of its creators.

Senator HATCH. If I might interrupt you, we hope that her view prevails; because we see a noticeable lack of reference to the Congressional Record and the legislative history in too many decisions of the U.S. Supreme Court, particularly over the last 25 years.

I agree with you that that is very important.

Mr. HOFFMAN. You have given me a marvelous transition for my next sentence.

Senator HATCH. I am pleased to have done that.

Mr. HOFFMAN. I listened with great interest to her comments. I was also impressed with her constant reference to the William and Mary Law Review and the use of that.

I raise this point because here, in the midst of an age when we are supposedly celebrating the genius of the Founding Fathers, President Reagan's recommendation to discontinue the role of the National Historical Publications and Records Commission would result in scuttling the documentary history of the ratification of the Constitution.

These massive volumes are intended to make accessible at last to historians, legal scholars, and judges a State-by-State record of the actual process by which the Constitution of the United States was adopted.

When the first books in the series were presented by the late editor, Prof. Merrill Jensen, to Chief Justice Warren Burger and the Supreme Court in 1976, the Chief Justice, speaking in behalf of his colleagues, expressed his profound appreciation for the concept of the series and spoke of his eagerness to see the completion of the remaining volumes.

The collection, the Chief Justice observed, would be of inestimable benefit to the Supreme Court in helping it comprehend the intentions of the Constitution's framers.

I can only say that the abandonment of this project—and they are but halfway finished—and others supported by the National

Historical Publications and Records Commission—would be a pathetic heritage to come out of this Congress in the bicentennial era.

In conclusion, Mr. Chairman, I hope this example demonstrates to you that there is a real and legitimate need for creating and supporting a commission to guide, coordinate, and direct our Nation's commemoration of the bicentennial of the Constitution.

HISTORY AND THE AGES

Let us hope that this important event will be marked with the dignity and grace worthy of its significance for history and the ages, and that its celebration makes a lasting contribution to our understanding and appreciation of our Nation's history.

In evaluating the work of the George Washington Bicentennial Commission, President Herbert Hoover wrote as follows:

> The addresses, the pageants, the public meetings, and the memorials of every kind which the commission will encourage and support will call public attention to the most striking of the events in his life. But 100 years after 1932, Washington will still be appealing to the sense, the interest, the public spirit, and the patriotism of that later age by the great thoughts of his mind, by his great hopes for his country, and by the simple straightforward elevated, manly, and patriotic spirit of which these writings will be the imperishable record.

That was the preface to the first volume of Fitzpatrick's edition which Hoover wrote.

It is thus my hope, Mr. Chairman, that your subcommittee and the Congress will lead the way in creating an equally imperishable record for the bicentennial of the U.S. Constitution.

Thank you.

Senator HATCH. Thank you.

What sort of fund reduction has the Reagan administration recommended regarding the collection of the papers of our Founding Fathers?

Mr. HOFFMAN. The National Historical Publications and Records Commission has never received a budget of more than $4 million a year.

The recommendation of the Reagan administration was to withdraw all grant funds completely, which in effect would eliminate the commission as a body to be able to help fund——

Senator HATCH. Are you saying that this is part of the budget reconciliation package?

Mr. HOFFMAN. We have been very successful. I should not say that. We have had some successes after many struggles.

An organization known as the Coalition To Save Our Documentary Heritage, in which I have been active, has been successful in persuading some Members of Congress. We have received a great deal of help from Senator Mathias in this regard. Mr. Schwengel was of enormous assistance to us.

Congressmen Conable and Jake Pickle, who are both on the society's executive board, and most importantly Congressman Edward Roybal gave us a great deal of assistance in persuading the relevant subcommittees and eventually the full appropriations committee to put into the budget $3 million—to restore $3 million. That was the House recommendation as advised by Congressman Roybal.

Objections were raised by one Congressman, Congressman Dannemeyer to that $3 million. Congressman Roybal, who has jurisdiction over that part of the budget, agreed to a $1 million appropriation.

Senator Abdnor has continued to insist on a $3 million appropriation. That is where the matter currently stands.

Senator HATCH. Perhaps we can help you with that.

I know that the fact is not well-known, but I was a history major in undergraduate school. I have a great love for history and for what you are talking about—the collection of papers of the Founding Fathers. I think it is an inestimably important treasure of our heritage.

Maybe we can help you with that.

Mr. HOFFMAN. It is not only the Founding Fathers, I might add, whose papers are sponsored.

Senator HATCH. I understand.

Mr. HOFFMAN. It includes Andrew Jackson's papers. Senator Thurmond was here this morning. I was going to mention John C. Calhoun's papers.

Senator HATCH. It depends on how you define "Founding Fathers," I guess.

Mr. HOFFMAN. The Founding Fathers have always been the key focus of the Commission. It was created largely for that purpose.

Half of its funds go to support publication. The other half of the $3 million has been granted in the past for the preservation of documents in States and local and private archives.

Senator HATCH. It would be tragic if we failed to preserve those documents.

Mr. HOFFMAN. That is our view, Senator.

Senator HATCH. Thank you. We appreciate having your testimony.

[The prepared statements of Messrs. Hoffman, Wirth, and Schwengel follow:]

PREPARED STATEMENT OF PROF. RONALD HOFFMAN

President Fred Schwengel has asked me to inform you of the historical program that the United States Capitol Historical Society has undertaken in honor of the approaching bicentennial of the United States Constitution.

Because of his keen disappointment at the lack of substantive academic content which characterized the observance of the 200th anniversary of the Declaration of Independence, Mr. Schwengel approached me, in June 1977, to discuss his determination to find a purposeful and enduring way to celebrate the bicentennial of the Constitution. I shared Mr. Schwengel's concerns and, after several discussions, I agreed to accept the responsibility of creating for the Society a program which would encourage research in the critical formative period of American history and provide a forum for the recognition and dissemination of the achievements of such scholarship.

The result of our collaboration is a series of annual symposia, sponsored by the United States Capitol Historical Society in cooperation with the United States Congress, and held in Washington every March. Each conference is devoted to an examination of a particular aspect of the American Revolutionary and Confederation eras and features papers by scholars of the highest distinction in their respective fields. In order to preserve a lasting record of these meetings, the Society has also committed itself to subsidizing the publication of the conference proceedings.

Four symposia have been held to date, and President Schwengel, the Society, and I are extremely gratified at the success of our venture. During the course of the past four years, the United States Capitol Historical Society has, as a result of the symposia series, gained recognition as an institution dedicated to the promotion of historical scholarship and has achieved a national and international reputation for its commitment to the importance of history in human experience. Moreover, the enthusiastic response to the Society's program has not been confined to the ranks of college and university professors. Our audience has been a varied one including college and high school students and teachers, genealogists, archivists, members of Congressional staffs and other government personnel, librarians, and numbers of citizens interested in learning more about the beginnings of the American nation. Such evidence underscores the fact that enterprises such as ours possess a broad appeal and that they tap the significant wellspring of interest in our country's history which exists within the American people.

I share the Society's hope that your committee will respond to that interest by creating a Commission for the Bicentennial of the United States Constitution. I am certain that such a Commission can benefit greatly from the experience of the United States Capitol Historical Society and that our symposia series can serve as a model for even broader and more extensive programs. With that end in view, I would like to describe in some detail the symposia which the Society has sponsored in the last four years.

The first conference, "Diplomacy and Revolution: The Franco-American Alliance of 1778," was held in the Senate Caucus Room of the Russell Senate Office Building and in the Capitol on March 15 and 16, 1978. Five scholars presented papers at this meeting: Alexander DeConde, University of California at Santa Barbara; Jonathan Dull of the Papers of Benjamin Franklin; Lawrence Kaplan, Kent State University; Orville Murphy, State University of New York at Buffalo; and William Stinchcomb, Syracuse University. Some 113 persons signed the attendance register during the four sessions of the symposium in the Senate Caucus Room, and an unknown additional number attended one or more sessions without signing the register. Of the 113 registered attendees, 76 were from the Washington metropolitan area. The remaining 37 came from Massachusetts, Michigan, Missouri, New York, Pennsylvania, Texas, Maryland and Virginia outside of the local area, and Canada. The conference concluded with a reception and dinner in the Mansfield Room of the United States Capitol. The proceedings of this symposium were published in March 1981 by the University Press of Virginia, the press which will publish all of the symposia material.

The 1979 symposium "Sovereign States in an Age of Uncertainty," was held on March 28 and 29, 1979 in the Senate Caucus Room of the Russell Senate Office Building with the concluding reception and dinner taking place in the Capitol. The scholars who presented papers focusing on different aspects of the processes by which the thirteen colonies transformed themselves into independent states were: Edward Countryman, University of Warwick, England; Emory Evans, University of Maryland; Merrill Jensen, University of Wisconsin; Jackson Turner Main, State University of New York at Stony Brook; Jerome Nadelhaft, University of Maine at Orono; Edward C. Papenfuse, Archivist of the State of Maryland, Maryland Hall of Records at Annapolis; Stephen Patterson, University of New Brunswick; and Richard Ryerson, The Charles Warren Center for Studies in American History, Harvard University. The timeliness of this symposium is strikingly illustrated by the fact that it was the last public forum at which Professor Merrill Jensen, one of the world's most eminent scholars of the American Revolution, presented his work. Dr. Jensen became seriously ill during the summer of 1979 and died in February of 1980.

A total of 199 persons registered for the 1979 conference, a significant increase over the previous year. Of this number, 164 were general registrants and an unknown additional number attended one or more sessions without signing the register. The majority of the general registrants, 132, came from the Washington-Baltimore area; the remaining 32 came from Iowa, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Washington, West Virginia, Maryland and Virginia beyond the local area, Canada, and England.

Planning for the 1980 conference commenced in the summer of 1978 when I initiated a series of discussions with Dr. Ira Berlin of the University of Maryland concerning the proper format for a symposium focused on the theme "Slavery in the Age of the American Revolution." Dr. Berlin and I concluded that the unique importance of the subject, the large degree of public interest in black history, and the unusually high quality of scholarship in the field merited an expanded meeting. In order to include the number of scholars we considered essential to the program, we decided to make the conference two and a half days in length, and to apply to the National Endowment for the Humanities for the funding needed beyond the Society's subsidy to meet the additional expenses. Both the Society and the National Endowment for the Humanities responded enthusiastically to these ideas, and the Endowment informed President Schwengel in March 1979 that it had acted favorably on our formal proposal and would award the Society the sum of $7500 to support the 1980 symposium.

The 1980 conference convened on the evening of March 25, 1980 in the Senate Caucus Room of the Russell Senate Office Building. The opening papers were given by Duncan MacLeod, St. Catherine's College, Oxford University, England, and Peter Wood, Duke University. On the succeeding two days of the conference, March 26 and 27, the following scholars presented their work: Ira Berlin, University of Maryland, Davis Brion Davis, Yale University; Richard Dunn, University of Pennsylvania; Herbert Gutman, City College of New York, Graduate Center; Franklin Knight, The Johns Hopkins University; Allen Kulikoff, Charles Warren Center for Studies in American History, Harvard University; Philip Morgan, The Johns Hopkins University; Mary Beth Norton, Cornell University; Benjamin Quarles, Professor Emeritus, Morgan State University; and Albert Raboteau, University of California, Berkeley. In addition, Barbara Field, University of Michigan, and Armstead Robinson, University of California, Los Angeles, served as commentators.

The impact of a conference such as "Slavery in the Age of the American Revolution" can be measured by two criteria. First, the short term gauge involves the number of participants and audience. Second - and this is perhaps the more important standard - the enduring value of the symposium will be determined by the value of the published papers and the directions they will point to for future work.

By either standard, the United States Capitol Historical Society's 1980 symposium was truly a phenomenal success. In all, some 450 to 500 persons attended some aspect of the meeting. Of this number, 300

persons registered formally for the sessions and another 120 attended the final banquet held in the Rayburn House Office Building to hear the concluding address by Dr. Benjamin Quarles. The geographic breakdown of conference attendance underscores the national recognition accorded the meeting. The largest group of general registrants, 101 in all, came from Washington; 82 persons from Maryland and 64 from Virginia also registered. The remaining 53 people who registered formally came from the following states: California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Massachusetts, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, and Utah. Canada and England were also represented in the audience.

Similarly, the letters I received from several publishers expressing their interest in printing the conference proceedings suggest the significance of the symposium for both the academic community and the informed public. The publication that will result from the conference will make an important contribution to the study of slavery and black history. For the most part, recent studies of slavery have focused on the half century preceding the Civil War, the period of the maturing of the Southern slave system. But slavery on mainland British North America was almost two hundred years old by the beginning of the nineteenth century, and most of the critical decisions that shaped the institution and the peoples whose lives it touched had long since been made. The recognition that the seventeenth and especially the eighteenth centuries were the formative period for the development of American slavery and Afro-American culture has sent scholars back to those years to study chattel slavery anew. The 1980 symposium "Slavery in the Age of the American Revolution" was the first major conference ever devoted exclusively to the results of this important research, and the publication of the papers presented there will provide both a valuable record of what has been accomplished and serve as a richly suggestive source for future scholarship.

The symposium held on March 26 and 27, 1981 "Arms and Independence: The Military Character of the American Revolution," continued to underline the broad public interest in the American Revolutionary Era. The program featured the following historians: Richard Buel, Jr., Wesleyan University; Robert Coakley, The Center of Military History; Ira Gruber, Rice University; R. Don Higginbotham, University of North Carolina; Richard Kohn, Rutgers University; Piers Mackesy, Oxford University, Oxford, England; Theodore Ropp, Duke University; Stephen Rosswurm, Lake Forest College; Charles Royster, University of Texas at Arlington; John Shy, University of Michigan and Robert K. Wright, Jr., The Center of Military History.

Again the meeting was extremely well attended and the audience's enthusiasm was a source of immense pleasure to the officers of the Society. Conservatively estimated, attendance at the two day meeting totalled 450 people: 370 persons officially registered and approximately 80 more attended conference functions without registering. The audience was drawn from 16 states, the District of Columbia, and two foreign countries. The geographic distribution of the registrants was as follows: Virginia, 123; Maryland, 92; District of Columbia, 96; Florida, 1; Massachusetts, 2; Michigan, 1; New Jersey, 3; New York, 19; North Carolina, 5; Ohio, 1; Pennsylvania, 1; Rhode Island, 2; Tennessee, 1; Texas, 2; England, 2; Italy, 1.

In 1982 the Society will be joined by the Institute of Early American History and Culture, one of our nation's most distinguished academic associations, in co-sponsoring the conference "An Uncivil War: The Southern Backcountry During the American Revolution." The 1983 meeting with focus on the Treaty of Peace and in 1984 the conference theme will be "Commodities and Commerce: American Economic Life in the Eighteenth Century." The 1985 symposium is scheduled to examine "The Cultural Aspects of the American Revolution: Art, Music and Literature During the War for Independence." and in 1986 the meeting will focus on "The American Revolution as a Social Movement: Lifestyles and Institutions, 1750-1800." In 1987 we will begin to concentrate on the Constitution with "James Madison and the Philosophy of the Constitution." In 1988 the symposium theme will be "Economics, Politics, and the United

States Constitution," and the concluding conference of the series in 1989 will be entitled "Ratification and Aftermath: The American Revolution in Perspective."

In conjunction with the symposia series, the United States Capitol Historical Society sponsors a highly successful secondary school program designed to foster an interest in and appreciation of the study and teaching of history in the public schools. This program, which has proved to be enormously rewarding for all of the people involved in it, was begun after the first symposium and developed from President Schwengel's deep conviction of the importance of offering sound historical education to students in the secondary schools. Organized with the assistance of Dr. Richard Farrell, a member of the departments of Education and History at the University of Maryland, College Park, and conducted with the cooperation of the Social Studies supervisors of the greater Washington Metropolitan area, the project has been enthusiastically received and as a result has expanded both in the numbers of school jurisdictions participating and in the scope of the program offered. In 1982 thirteen school systems within the greater Washington Metropolitan area will participate in a full day of symposia related activities. On March 18, the first day of the 1982 conference, selected students and teachers from each of the systems will be the guests of the Society for the opening session of the conference. At noon on that day, the Society will host its annual Student-Teacher Awards Luncheon at which it will honor one student from each participating jurisdiction who has been chosen as its most outstanding young history scholar. Each of these honorees will bring as his or her guest his or her parents and that teacher who has most influenced his or her interest in history. In addition, the Society will recognize a group of teacher-historians nominated from each district and will select from that number one particularly outstanding representative to receive a cash award in honor of his or her contribution to the study of history. Following the luncheon, the students and teachers will be given the opportunity to tour the Capitol with Mr. Schwengel, and in addition, the teachers and students will have the opportunity to participate in private seminars conducted by various historians featured on the conference program. The private seminars represent an expansion of the Society's secondary school program initiated in response to the enthusiasm expressed at the 1980 conference by the group of teachers and supervisors who were given the opportunity to meet in such a setting with Dr. Benjamin Quarles. As a result of the reaction of this group, the Society enlarged the seminar offerings and included as its guests, in addition to the students, guest teachers, and teacher-historians, four additional teachers from each participating school system, selected by each system according to its own criteria. Thus, from a venture which initially involved approximately 50 persons, including students, parents, and teachers, the Society has evolved an increasingly rich secondary school program which in conjunction with the 1982 symposium will include at least 200 people. The spirit of cooperation and enthusiasm from school personnel which have characterized the Society's secondary school program from its inception constitute the strongest evidence of its great value and its appeal.

The Society's publication program, to which I have already alluded, is conducted in conjunction with the University Press of Virginia, one of the nation's foremost academic publishers of eighteenth century historical studies. The Society's first monograph Diplomacy and Revolution: The Franco-American Alliance of 1778, has recently appeared. The manuscripts from the 1979, 1980 and 1981 symposia are currently in various stages of production.

I hope that this somewhat detailed account of the United States Capitol Historical Society's symposia series will be of value to your committee in deciding whether to create a Commission for the Bicentennial of the United States Constitution and, once that decision has been rendered, will assist such a group in determining its focus and delineating its responsibilities. Let me conclude my remarks by inserting a personal note about the need for this Commission. As an historian of the American Revolution, I am firmly convinced that no group would be more astonished to find the United States Constitution still in effect than the founding fathers who formulated it. The durability and flexibility exhibited by the Constitution over the last 191

years are one of the truly remarkable achievements in the annals of governance. The fact that this nation has lived under such a system is a tribute both to the architects of the Constitution and to the people of the United States; it is an accomplishment of which we can all be proud. Clearly, its celebration provides a unique opportunity for renewing our country's sense of purpose. But a cautionary note is in order. The bicentennial of the American Revolution was a generally tasteless affair. Some of it was good fun, but much of what went on was cheap and shallow. Most unfortunately, it provided little of real substance. Let us hope that the bicentennial of the United States Constitution is not subjected to the same unseemliness but rather is commemorated with the dignity and grace worthy of its signficance for history and the ages.

CONRAD L. WIRTH
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September 17, 1981

Statement Submitted by Conrad L. Wirth, Chairman,
Steering Committee, Federal Government Bicentenary Era Commemoration

I am sorry I cannot be present to express personally my feelings about how important it is that we the people--yes, "we" refers to all the people of our nation--know and understand the basic principles of our democracy, "a form of government in which the supreme power is vested in the people and exercised by them or by their elected agents under a free electoral system." (Note: Taken from The American College Dictionary 1969, Random House, Inc.).

I believe most of the people understand this and know they can vote if they can qualify as citizens and that through the exercise of that political process, they are preserving and strengthening this republic as "a state in which the supreme power rests in the body of citizens entitled to vote and is exercised by representatives chosen directly or indirectly by them."

Those two words, "Democracy" and "Republic", are easy to understand, but how important are they to our way of life and why and how did such a form of government come about? Why do so many people want to come and live in the United States? Freedom is the basis on which free enterprise thrives. Those two principles, properly balanced are paramount to our nation's well-being and it is of utmost importance that we all understand that fact and know just how it came about, especially what our forebears did and what they went through to create our unique form of government. Sure, the educational institutions, the libraries, the law books and the many story books that have been written tell pretty well the stories of certain events. However, they seldom delve into the principles involved and, consequently, very few of our millions of people give the hard core facts any thought at all.

The four relatively small groups of citizens that go to make up the White House, the Capitol, the Supreme Court, and the Washington Monument Historical Organizations, have gotten together to try to launch a Commission recognized by Congress made up of citizens, both lay and professional, that would assemble the information required to tell the story, with the aid of the media, of American independence and, above all, how and why the three independent branches of the Federal Government were formed and the people at all levels who took part in doing so. Yes, we know of the various related proposals such as Project 87. It's good and it is of utmost importance, but how are you going to fit it into the total story unless you build up the background--the rule of the Colonial Governors sent over from England, the poor people, etc.? How did George Washington and his first administration go about establishing the Departments and their responsibilities, etc.? These things should be told by the media, step by step, at given intervals as they took place 200 years ago.

First. Why a Citizens' Commission. I believe the project would be better received and better understood by all the citizens if they knew that it was managed by their own. Of course, they would need the help of all the various professions that had contributions to make. But isn't it the citizens' committees that work to help elect presidents, mayors and members of Congress?

Second. The Citizens' Commission would be a great help in getting the media to publish the story of our history on a weekly basis from now until the year 2000, the bicentenary of Congress settling in their own Capital city.

Yes, we expect the free people and free enterprise to help pay for the program, and we will also expect a large amount of time to be donated by the professionals. We believe that if Congress passes a bill such as S.J. Res. 102, introduced in the last Congress by Senator Robert C. Byrd for himself, Mr. Baker, Harry F. Byrd, Jr., Mr. Hatfield, Mr. Jackson, Mr. Mathias, Mr. Randolph, and Mr. Stevens, or H.R. 4981, introduced by Mr. Wright for himself,

Mr. Rhodes, Mr. Bennett, Mr. Conable, Mr. Deewinski, Mr. Fisher, Mr. Harris, Mr. Pickle, Mr. Rodino, Mrs. Spellman, and Mr. Udall, we could finance the most interesting and enlightening history of the forming of the government of the greatest nation in the world, and far more citizens of the United States of America would know much more about their country and would hold it in higher esteem than ever before. Further, it would also have a beneficial effect on the rest of the world.

We would request from Congress $300,000 a year, and another $600,000 a year if we raised $1,200,000 to match it. Our theory is that the $300,000 and $600,000 is the money part of the citizens' (taxpayers') contribution, and the $1,200,000 would be the Free Enterprise contribution, and we expect considerably more. We have approached three large companies because we wanted to test our money-raising phase of the program before we went too far. We do not want to go any further with the fund raising until we have some idea of what Congress will do. At this time, I prefer not to disclose the name, but one company states:

> "Your plans are of much interest to us, and we wish you well.
>
> "Since visiting with you, we've given additional thought to the question of how you might proceed with your plans. We believe the most productive strategy would be to seek the involvement of top business leadership in the project, both as members of the planning group and as fund raisers. One way to enlist this kind of help is to arrange a luncheon sponsored by several of the prominent political leaders already associated with your effort, and let them tell the story directly to the business leaders attending.
>
> "I hope this suggestion is helpful. Please let me know if we can assist you in any way as your plans progress."

Another company stated in last year's annual report that they have been doing very well and still would like to keep it up, but that companies of their size should pay more attention to the social well being of the people if not for any other reason than to stay alive. I don't mind giving the name of this company, because that statement was printed in their annual report. We called on them and they stated they would be interested in our proposal but did not care to take the lead. It was Time, Inc.

From a third company, we got a long letter back telling us all they were already doing in the public interest. However, I feel rather sure that they could be persuaded to help with our project.

Our plan for financing from the private sector is to get, if possible, some twenty to twenty-five of the largest companies together, each putting a million dollars in a trust which they themselves would manage, give the Citizens' Commission 7½% of the earnings, and leave the rest of the earnings in the trust to build up capital, which in turn would increase our 7½% return. Then, in the year 2000, when the Citizens' Commission would be dissolved, they could take all their trust fund back.

We hope this concept will receive favorable action in this session of Congress, because time is running out. Our proposal will not interfere with any of the bills under consideration that I know of. Further, this is not pride of authorship, but we believe most sincerely that it is important to our Nation to recognize that without a past, you have no future.

Sincerely,

Conrad L. Wirth

88-295 O—82——7

PREPARED STATEMENT OF THE HONORABLE FRED SCHWENGEL
PRESIDENT, U. S. CAPITOL HISTORICAL SOCIETY
TO: Members of the Judiciary Committee
RE: Bicentennial of the Constitution

I come to you as a historian and as President of the U. S. Capitol Historical Society with deep convictions about the importance of history as we prepare for citizenship. Commemorations and centennials furnish landmarks and opportunities to reflect on the past. No nation has a more thrilling story to tell than the Americans that is the result of the formation of our government under an instrument called the Constitution, beginning with "We The People" as we reflect on those early hard beginnings and the progress that we have made since that time and the record of achievement not only for its own people but for the peoples of the world.

A great English jurist, statesman, and scholar, Gladstone, once said about the Constitution; "The most wonderful work ever struck at a given time by the brain and purpose of man."

It is my conviction Mr. Chairman that we ought to now form a national commission of some sort to help coordinate programs and to direct studies and researches that will eliminate duplicates and to insure that the best talents are applied in every area where research and study is needed.

Ever since I have been in Congress I have been identified with commemorations and centennials. Twice I was the author of a bill to commemorate the 100th anniversary and reenactment of the first and second inaugural of Abraham Lincoln. Then I initiated and authored legislation to commemorate the 150th anniversary of Lincoln's birth. The highlight of that was the joint session of congress where Carl Sandburg made that very fabulous statement about this great American who many dubbed the greatest of all Americans.

I was chairman and vice chairman of the joint committee that commemorated the 100th anniversary of the War Between the States.

I was so very much involved and interested in the celebration of the 200th anniversary of the Declaration of Independence. In all of these instances Mr. Chairman I have not only enhanced the knowledge of the magnificent history made in those thrilling times, but have encouraged a growing interest in history.

We have responded to the challenge of Carl Sandburg who once said "Whenever a people or an institution forgets its early hard beginnings it is beginning to decay."

Mr. Chairman, I am not aware of the details of the bill before the congress on this question. When there is a bill I would be glad to read it and give my suggestions and/or answer questions about it.

Let me just suggest that whatever commission is formed, it will involve some of the most knowledgeable people in American history.

We will call on the talents of historical organizations that we plan to use and work closely with. There are some 5,000 local and state historical societies in America today.

Finally, let me say that I urge the adoption of some kind of legislation that can give national status in preparation and direction in the celebration of this most significent event; not only in the history of our country but possibly in the history of mankind.

Senator HATCH. Our final witness this morning will be Mr. Boris Feinman, the founder and chairman of Convention II, the organization which did such an outstanding job of putting together this morning's program.

Convention II has performed fine service for this country in exposing countless numbers of young Americans to the constitutional processes of our Nation with a variety of educational programs.

As a member of the founder's committee of Convention II, I am particularly pleased to have Mr. Feinman with us this morning. I want to personally congratulate you and ccmpliment you on the generous work you have done through the years—work that really is of inestimable value to our young people and to many others as well.

We will be happy to take your testimony at this time.

STATEMENT OF BORIS FEINMAN, FOUNDER AND CHAIRMAN, CONVENTION II

Mr. FEINMAN. Thank you, Mr. Chairman, for those nice words.

May I say thank you very much to Steve for the work he has done with us from the beginning in bringing us to your attention way back.

I would like to pick up for a moment on something that Senator Mathias said. He talked about a higher spirit or a higher power involved in these things. The last two paragraphs of my testimony, which I will condense, read:

> Finally, and it seems more than mere coincidence:
> Fourscore and seven years into the 20th century we shall be celebrating the 200th birthday of the Constitution of the United States.

I think there was a higher power involved in all of this. Abraham Lincoln started it, and we are right in his trail now.

Senator HATCH. I think so too. I am a little more vociferous about it than Senator Mathias, but I believe that he acknowledges too that it may well have been an inspired document.

Mr. FEINMAN. I wish I had enough time to discuss everything that I want to put on the table. I would show you more of that type of thing.

Senator HATCH. We will keep the record open, so that you may submit it.

Mr. FEINMAN. It is already submitted, but let me just review:

At last year's birthday party for the Constitution, we proclaimed that the time from then until 1987 should be known as a time for citizenship education. In line with that, I recommend that your committee create a Bicentennial Commission with dispatch, since 1987 is almost too close upon us.

In any event, if senatorial business should delay it, I recommend that your committee, Mr. Chairman, continue the process of holding regular hearings on business of your own on the birthday of the Constitution as you are doing today as an ongoing focus on the Constitution.

We at Convention II, if it will serve any purpose, will offer to maintain these annual birthday breakfasts as a focal point for anybody engaged in bicentennial affairs and stand ready to do whatever is necessary to carry that out.

I would like to introduce myself to you as a politician, speaking from that background and that point of view, as to the specifics of your Commission operation.

As a practical partisan political operator, I bring this view to you: The Commission offers an opportunity for ridding America of a cancerous disease which imperils our democracy. That disease is the low and everdiminishing participation of the electorate in the selection processes of our Government.

There is no cure on the horizon; but an epic and all-encompassing affair of a bicentennial, if constructed for that purpose, just might turn us back to involvement, voting, and love for service.

My written testimony includes views of public figures as to the gravity of the situation. I would like to epitomize it by quoting from the commencement address by Yale's President, Bartlett Giamatti.

He said:

> What concerns me most today is the way we have disconnected ideas from power in America and created for ourselves thoughtful citizens who disdain politics and politicians when more than ever we need to value what politics and politicians can do and when more than ever we need to recognize that the call to public life is one of the highest callings a society can make.

That is the cancerous disease imperiling our society—thoughtful citizens who disdain politics and politicians.

What is the root cause of that disease? I suggest that Lori Greendorfer, a student at Bronx High School of Science in New York, has the answer. She said, when referring to the small turnout at the polls by her fellow 18-year-olds: "They are not educated about politics."

I agree; they are not. What is worse is that neither are their parents.

Politics is not taught in the schools. That which is taught is not taught early enough, it is not taught joyously enough, and it is not ranked highly enough.

The situation is critical. Only an event of the magnitude of the bicentennial can provide a white hot light of focus on that issue as being critical.

Therefore, I ask your committee to make the core theme of the bicentennial the uplifting of the cause of citizenship education and the attainment of increased participation by the electorate in the

political process. I ask you to charge the commission to attain those goals.

If you set a high goal of stimulating toward a cure for dangerous apathy, we will find a cure. If you set a great expectation of success where no one has yet achieved success, we will live up to that expectation.

On a related point, there is a crucial need to insure that the public does not perceive the bicentennial as primarily scholarly, academic, legal, bureaucratic, and therefore remote.

To avoid that perception, I recommend the inclusion of two specific groups in the highest level consultee groups listed in S. 477. I recommend the inclusion of the media and the political parties—the media, of course, to insure that their absence does not plague the entire bicentennial operation with silence or minor attention, and the inclusion of the political parties because, as Justice Learned Hand said, "The Constitution is the best political document ever made and why exclude the politicians from the celebration of their best effort."

I have thoughts on the international values of our American Constitution. I have not included them in my written testimony. However, it occurs to me that that is as important as the domestic values. The great themes of the American revolution kindled fires of inspiration through our people and throughout the world. The flames need fanning domestically. How fare they now around the world?

I dug up just yesterday the words of Charles Malik, Ambassador from Lebanon, at a commencement speech in North Carolina at Campbell University in 1980. He had this to say:

> In the global war of ideas, what kind of spiritual message does America offer to the rest of the world. In Asia, Africa, and the Middle East and Latin America, who is reading Plato, Aristotle, the Bible, Shakespeare, Dante, Jefferson, and Rousseau? But who is reading Marx, Lenin, Ho Chi Minh, and Herbert Marcuse?
>
> As a matter of simple honor and pride, do you accept that your ideological meaning to the world is comparatively nil? In your relations to others, you seem to rely more on force than on ideas, more on goods and money than on spiritual attitudes which fill the mind and grip the soul.

I think Ambassador Malik laid it on a bit thick. America is conceived in liberty and dedicated to the proposition that all men are created equal. Yet we do shy away from articulating spiritual attitudes which fill the mind and grip the soul. We do not make enough out of the fact that the American Constitution is one of the greatest inventions in the history of man. Under it, America has, in the family of nations, lived in unparalleled commitment to freedom, liberty, and respect for human differences.

The continuation of this realization should be a charge to the commission also.

I think, Mr. Chairman, this adequately summarizes my testimony, all of which has been handed in for the record.

Senator HATCH. We will include your full testimony in the record as though fully delivered.

We want to again compliment you for the excellent work you have done in helping young people and others throughout our society to have a greater awareness of and appreciation for the Constitution as well.

Mr. FEINMAN. I thank you, sir.

Senator HATCH. I think this has been an excellent hearing. Our breakfast this morning was great. Next year, let us hope that we can reserve the Rotunda. It is reserved for funerals; I am not sure that it can be reserved for our breakfast, but we will see what can be done.

Mr. FEINMAN. You have made my day happy.

Senator HATCH. Thank you.

[Material follows:]

CONVENTION II,
Washington, D.C., September 17, 1981.

Subject: Establishment of a United States Constitution Bicentennial Commission. Testimony by: Boris Feinman, Founder/Chairman Convention II.

Thank you for the opportunity to testify.

I am here as Founder and Chairman of a nonprofit education corporation active in the field of political/citizenship education. We are devoted to the concept that the Bicentennial offers a rare potential for problem-solving and for rededication of the American soul.

Convention II conducts the annual national constitutional convention of high school students in the Congress each February and the annual birthday breakfast for the Constitution in the Congress each September 17th. At last year's event in the Dirksen caucus room . . . described by Senator Jennings Randolph in the attached copy of the Congressional Record[1] . . . we proclaimed the time from then to the 200th Anniversary of the Constitution as "The Constitution's Era—A Time for Citizenship Education".

Building upon that resolve, this year we have just had the pleasure and privilege of hosting the 194th birthday in the other half of these chambers.[2a,b] . . . I believe it is a benchmark in Senate history, this combining of festive salute with a public hearing. On behalf of our co-hosts, the College Republican National Committee and the College Democrats of America, and on behalf of our guests, I thank our hosts in the Senate, Senator Orrin Hatch and Senator Jennings Randolph, for these arrangements.

I applaud the Committee's decision to hold this hearing. The Bicentennial is close upon us and the time from now to 1987 is barely long enough to permit the mounting of an inspirational commemoration of one of the greatest inventions in the History of Man.

I hope the Commission can be created with dispatch. But in any event, I hope this Committee will establish the policy of holding regular hearings on regular business on every September 17th, as an immediate beginning of the Bicentennial activity. We, at Convention II, offer to continue the birthday breakfasts annually as a focal point for the forces engaged in Bicentennial affairs.

My testimony is to the effect that a major national ill exists and that this Committee can weave the cure for that ill into the make-up and purpose of the Commission and that it needs doing now.

The national ill I speak of is the low and ever-diminishing participation of the electorate in the selection processes of our governments.

The cure for this national ill is to establish a core theme for the Bicentennial and write it large into the clauses establishing the Commission, to wit: "to uplift the status of Citizenship Education and to attain increased participation by the citizenry in the political process".

I am not advocating Federal imposition of ideology or specifics. I am advocating Federal lead in keeping attention focused on the disease. Throughout our nation many are engaged in the effort to promote citizenship education and participation. We have our small successes. But on the yardstick of national resultant we have all failed. We need the white hot light of focus on the issue as being critical. We need the same concentration towards solution that President Reagan mobilized in his approach to our economic sickness.

If this Committee sets the high goal of stimulating towards a cure for the ill of dangerous apathy, we will find a cure. If this Committee sets a great expectation of success where no one has yet achieved success, we will live up to that great expectation and the Bicentennial Will carry us to new heights of committment to Freedom, Liberty, and Respect for Human Differences.

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[1]Not attached. See Congressional Record, Sept. 17, 1980, vol. 126, No. 144.
[2a,b]Attached.

I will now try to persuade you that the situation is as bad as I say it is.

When two-thirds of the electorate shuns the polls, democracy begins to die. This happened in the elections of 1978, and we have been on a down-hill attitudinal slide since then. I place in evidence a number of newspaper articles from which I quote as follows:

New York Post, October 27, 1978

"On Voters Who Stay Home". . . . Columnist Harriet Van Horne offered a remarkably accurate forecast. She said, "Should this trend continue—and it probably will—the presidential election of 1980 will find more than half the eligible voters saying to hell with it".

She was close. Forty-six point one per cent abstained, nationally. But in ten States and the District of Columbia, more than fifty per cent said to hell with it and did not vote in 1980.

Wall Street Journal, October 1978

Book review entitled, "Refraining Voters and Debilitated Parties". Austin Ranney, former President of the American Political Science Association, commenting on a suggested remedy that we need a renewed appreciation of what useful things Parties are, says, "No doubt; but nothing I see happening in the nation's civic classes, newspaper editorials, television news broadcasts or public opinion polls suggests that such a renewal is even dimly in view".

New York Times, January 22, 1979

"Three-State Region Shows Long, Steady Decline in Voting Percentages". Politician/Professor Richard Wade of New York had no suggested cure but said, "The first thing to do is to let people know how bad it is".

We are possessed of a national cancer. It is accurately diagnosed in the 1981 commencement address of Yale University President A. Bartlett Giamatti. He said: "What concerns me most today is the way we have disconnected ideas from power in America and created for ourselves thoughtful citizens who disdain politics and politicians when more than ever we need to recognize that the call to public life is one of the highest callings a society can make".

That is the cancer—thoughtful citizens who disdain politics and politicians.

What is the cause of this cancer?

Lori Greendorfer has the answer. Lori is a student at Bronx High School of Science in New York City. On August 25, 1981, in a New York Times item on the subject of the small turnout at the polls by the 18-year-olds, Lori explained: "They're not educated about politics".

I agree. They are not. And what's worse, neither are their parents.

I offer the opinion "They're not educated about politics" based on my own personal experiences as a local community activist, political party worker and campaign chairman, and teacher; all of which led to the creation of Convention II. The road to the ballot starts in the school, but politics is not taught in the school, and that which is taught is not taught early enough. It is not taught joyously enough, it is not ranked high enough.

In further substantiation of that opinion, I attach the comments [3] of three young men who were on the program at the breakfast in these chambers an hour ago. They are: G. Timothy Leighton, President of Convention II; Jack Abramoff, Chairman of the College Republican National Committee; and Bernard Friedman, President of the College Democrats of America. They speak of the difficulties in recruiting their peers to political participation; of the need for better politicial/citizenship education; of the concern they share with all partisan political workers: To move America to value what politics and politicians do; to move America to universal participation out of a sense of responsibility and enlightened self-interest; to move America to deepest appreciation of the uniqueness of our free society.

In additional confirmation that they are not educated about politics, here is the voice of John Silber, President of Boston University, interviewed by the US News and World Report, September 7, 1981. He says, "What we used to call civics is a bare spot in the curriculum".

I think the evidence is overwhelming. The Founding Fathers assigned to public education the political purposes of promoting the values, ideals and responsibilities of citizens in a democratic republic. We must do much more to accomplish those purposes.

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[3] Not attached. See Congressional Record, September 17, 1981, S9895, comment by Senator Jennings Randolph, West Virginia.

Also, we must do more about using the powerful machinery for citizenship education which Congress put in place in 1952 and 1956 in resolutions authorizing the President to proclaim September 17th as Citizenship Day, and the ensuing week as Constitution Week. The Day to be in recognition of all citizens who have come of voting age or have been naturalized during the year. The Week to be a time for study and observance of the circumstances of the birth of the Constitution. These are effective tools and we have not used them wisely.

I suggest that the situation is critical and that only an event of the magnitude of the Bicentennial can turn it around. Therefore, I ask this Committee to provide the white hot light of focus on the issue as critical, by charging the Commission as follows: "To uplift the status of citizenship education, to attain increased participation by the electorate in the political process, and to further encourage, plan, develop and coordinate the commemoration of the Bicentennial of the Constitution".

And to insure that the Commission will be provided from the beginning with the maximum ability to catalyze a national mobilization the composition of the consultee and ex-officio groups listed in S. 477 should be augmented to include specifically the Media and the Political Parties. There is a great need to insure that the public does not perceive the Bicentennial as primarily scholarly, academic, legal, bureaucratic, and remote. The inclusion of the media at the highest level is essential.

As for the political parties—Justice Learned Hand called the Constitution the best political document ever made. It does not seem appropriate that we politicians be excluded from prime position in the celebration of our best efforts.

Mr. Chairman, I urge that your Committee this year attend to the business of American intellectual, ideological, spiritual and practical participation in the affairs of our nation and world. Let us create a Bicentennial Commission to enthuse our citizenry to undertake its responsibilities as the price of enjoyment of its rights.

Finally, as we study our history, we become aware of a higher power involvement. Surely it is no mere coincidence that: Fourscore and seven years into the twentieth century, we shall be celegrating the 200th birthday of the Constitution of the United States.

(2)a

Please come to breakfast in the Russell Caucus Room
of the United States Senate
Thursday, September 17, 1981, 8:30 a.m.
on the occasion of the 194th Birthday of the Constitution
to be followed by a public hearing of the
Subcommittee On The Constitution
of the
Senate Judiciary Committee
Senator Orrin Hatch
Senator Jennings Randolph

These proceedings are part of a build up towards the 1987 Bicentennial of the Constitution known as: The Constitution's Era, A time For Citizenship Education, as proclaimed by CONVENTION II at the 193rd Birthday on September 17, 1980.

Please respond to this years breakfast Hosts, Convention II and the College Republican National Committee and the College Democrats of America at 202-543-8000 or 914-633-6922.

(2)

AT LAST YEARS BIRTHDAY BREAKFAST FOR THE CONSTITUTION IN DIRKSEN CAUCUS ROOM WE PROCLAIMED THE TIME FROM THEN TO THE 200 BIRTHDAY AS"THE CONSTITUTIONS ERA-A TIME FOR CITIZENSHIP EDUCATION."

BUILDING UPON THAT RESOLVE,WE NOW HAVE THE PLEASURE AND PRIVILEGE OF HOSTING THE 194th BIRTHDAY. I BELIEVE IT IS A BENCH MARK IN SENATE HISTORY,THIS COMBINING OF FESTIVE SALUTE WITH PUBLIC HEARING.

ON BEHALF OF OUR CO-HOSTS,THE COLLEGE REPUBLICAN NATIONAL COMMITTEE AND THE COLLEGE DEMOCRATS OF AMERICA,I THANK OUR HOSTS IN THE SENATE,SENATOR ORRIN HATCH AND SENATOR JENNINGS RANDOLPH,FOR THESE ARRANGEMENTS.

BORIS FEINMAN
CONVENTION II

Senator HATCH. We appreciate everyone's participation today. We think these have been excellent hearings. Hopefully, we can push through a bill on the bicentennial and get it out, either before the end of this year or sometime next year. We will, of course, have to see what the House is inclined to do.

We will recess this committee until further notice.

[Whereupon, at 11:30 a.m., the subcommittee recessed, to reconvene at the call of the Chair.]

APPENDIX

INSTITUTE OF EARLY AMERICAN HISTORY AND CULTURE

SPONSORED JOINTLY BY THE COLLEGE OF WILLIAM AND MARY
AND COLONIAL WILLIAMSBURG FOUNDATION

BOX 220 - WILLIAMSBURG, VIRGINIA 23185

OFFICE OF THE DIRECTOR

14 September 1981

Senator Orrin G. Hatch, Chair
Senate Judiciary Subcommittee on the Constitution
United State Senate
Washington, DC 20510

Dear Senator Hatch:

I am writing to express my support for S. 477, a bill to establish a commission for the commemoration of the Bicentennial of the Federal Constitution.

The Institute of Early American History and Culture is the only organization of national scope devoted exclusively to the encouragement of scholarly study of early American history from the beginning of the English colonization of America through the era of the Founding Fathers. Consequently I think we are in an especially favorable position to know what individuals and other scholarly organizations intend to do to recognize what well may be the most signal event in our entire national history. Our preliminary inquiries have suggested that so far not a great deal has been undertaken, and I suspect something of the same thing is also true at the level of a more popular observance of the bicentennial of the Constitution.

Certainly we and other comparable groups will attempt to do something worthwhile and appropriate. I think that there are others, including many agencies of local and state government and private organizations with the ability to reach a wide public, who need to be encouraged to join in the commemoration far more extensively than they have so far planned to do. An effective observance badly needs the coordination that a small, effective commission at the national level could provide. It strikes me, for one thing, that there are simply fewer local events connected with the formation of the Constitution, at least until the state-by-state debate over ratification began after 1787, than was true of the American Revolution. As a consequence, various state and local agencies, both public and private, will need greater stimulus to plan and carry out an effective observance than was true in 1976, when the American Revolution Bicentennial Commission nonetheless played a critical part. This present effort need not, and probably ought not, involve large federal expenditures. It is a matter, as the enabling legislation itself says, of providing coordination and encouragement, of giving a proper sense of direction to the observance.

Other nations have, of course, staged successful revolutions and wars of national independence, even if we may be pardoned for being particularly proud of our own, but no other nation has ever achieved the difficult task of political reconstruction after the inevitable dislocation of revolution and war in such a remarkable and immediately constructive manner, or against any greater obstacles, than did the struggling American nation of 1787. Twentieth-century Americans can profit immensely from a better understanding of events connected with the formation of the Constitution and the influence that their successful outcome still exerts on us. The proposed commission could play an unusually significant role in achieving a bicentennial observance that would further such an end.

Not a great deal of time remains to plan such a commemoration adequately. I very much hope the subcommittee will report S. 447 out favorably after the hearings it has scheduled this month.

Sincerely,

Thad W. Tate

Thad W. Tate
Director

PREPARED STATEMENT OF ROBERT E. REDDING, DIRECTOR
JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAM
PHI ALPHA DELTA LAW FRATERNITY, INTERNATIONAL

Mr. Chairman, and members of the Subcommittee, I am Robert E. Redding and wish to present this statement on behalf of the Phi Alpha Delta Law Fraternity, International regarding the approaching bicentennial of the United States Constitution and the preliminary planning necessary for the appropriate commemoration of this auspicious anniversary. I am a past International Justice of the Fraternity and also serve as the current Director of the Fraternity's National Juvenile Justice and Delinquency Prevention Program.

The purpose of this statement is to indicate the support of Phi Alpha Delta for the establishment of a Commission for the Commemoration of the Bicentennial of the United States Constitution. It is also our wish to become active participants in the planning and commemoration processes.

On July 11, 1981, the International Executive Board of the Fraternity unanimously approved a resolution to this effect, a copy of which is added to this statement.

I.

Phi Alpha Delta is an international professional law fraternity whose purpose is to serve the law student, the law school and the legal profession of the nation. It has carried out this program for almost 80 years as a non-profit organization.

The Fraternity has become the second largest organization in the legal profession, second only to the American Bar Association. With a membership exceeding 100,000 lawyers, judges, government leaders, law school faculty, and law students, more than 3,000 persons become members each year without restriction due to sex, age, color, creed, religion or national origin. The Fraternity has more than 160 law school chapters, chartered at American Bar Association accredited law schools throughout the United States, Puerto Rico, Canada and Mexico. Alumni chapters have been chartered in 77 North American cities, metropolitan areas and Puerto Rico. We are committed to equal justice under law, to the maintenance of an effective legal sys-

tem serving the needs of all citizens, and to the highest standards of professional ethics practiced by the legal profession.

The leadership of the Fraternity has consistently been derived from top echelons of the legal profession. Our present International Justice is the Honorable Steve Clark, Attorney General of Arkansas. Past members of the PAD International Executive Board have included distinguished lawyers, as well as Justices serving on the Supreme Court of the United States, State Supreme Courts, other Federal, state and local courts, and other governmental capacities. The attached brochure, entitled "This is PAD," will identify not only the many distinguished leaders of the Fraternity but also its many professional service programs.

The Fraternity's involvement in the field of juvenile justice and delinquency prevention, an expansion of its service program, got underway in February, 1979. At that time, the Fraternity was awarded a two-year grant by the Office of Juvenile Justice and Delinquency Prevention, (OJJDP) to participate in a nationwide law-related education program funded pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974. The Fraternity has recently received a continuation grant that will enable it to continue in this field through January, 1982. We are proud to be participants in this public interest program because we think if offers a stong preventative deterrent to juvenile delinquency and crime, now one of the leading national problems facing our cities.

II.

We think the Subcommittee will be interested to know some of the potential areas of service which we have in mind as our contribution to the Bicentennial anniversary. A brief summary of possible areas of service was prepared by Fraternity Member David M. Schimmel who is a lawyer, a Professor of Education at the University of Massachusettes, and Education Consultant to the Fraternity's Juvenile Justice program. Mr. Schimmel's paper, contemplated for mailing to the Fraternity membership, is attached to this statement.

III.

We do wish to submit one specific recommendation to the Subcommittee, concerning the legislation to be enacted. For this

purpose, I would like to refer to S. 477, introduced on February 16, 1981 by Senator Mathias and other Senators, although other bills are pending in Congress.

We would draw your attention to Sections 3 (a) (1) of the Bill and to lines 17 - 21 on page 2 thereof. We would like to state that the Fraternity will be prepared to present suggested plans and programs to the Bicentennial Commission pursuant to this subsection once the Commission has been duly established. The expertise we have acquired in our law-related education program, coupled with our commitment to the purposes of the Bicentennial commemoration, will provide a useful background to the Fraternity's contribution.

We would also like to call your attention to Section 4 (a) of S. 477 and to the text which appears on page 3 thereof. You will note that reference is made to the manner of selecting the public members of the Commission as persons to be appointed by the President. According to the Bill, the President is encouraged to consult a number of specified national organizations. We respectfully propose an amendment to this listing to include Phi Alpha Delta Law Fraternity, International.

IV.

In conclusion, we encourage the Congress and the President to proceed expeditiously with the establishment of the Bicentennial Commission. It is our feeling that because of the relationship of the United States Constitution and the Bill of Rights to the very structure of our Nation, it behooves all members of the legal profession to help make this approaching anniversary a lasting observance by all citizens.

We thank the Subcommittee for the privilege of presenting our views.

Respectfully,

Robert E. Redding

Robert E. Redding

RESOLUTION

WHEREAS this Nation approaches the bicentennial of the adoption of its Constitution and the historic events preceding and associated with its preparation and ratification (events having a profound influence throughout the world and a major significance in the development of our national heritage of individual liberty, representative government, and equal justice under the law) it is appropriate and desirable for all citizens to take notice of the observation and commemoration of this anniversary and these events through local, State, national and international activities; and

WHEREAS Phi Alpha Delta Law Fraternity, International, is the second largest organization in the legal profession today with a continuing commitment to render professional services that will benefit law students, law schools, the legal profession, and the nation; and

WHEREAS it would be fitting for the Fraternity to volunteer to become associated with all other participating organizations in the planning, development, and coordination of observances and activities associated with this bicentennial;

NOW, THEREFORE, BE IT RESOLVED on July 11, 1981 by the International Executive Board of the Phi Alpha Delta Law Fraternity, International, that the Fraternity become an active participant in the observation and commemoration of this anniversary.

/s/ Fredrick J. Weitkamp
Fredrick J. Weitkamp, Executive Director

TOWARD BICENTENNIALS OF SIGNIFICANCE:

PAD CAN TAKE THE LEAD

DAVE SCHIMMEL*

In the aftermath of the bicentennial of 1976, many Americans know we could have done better. The bicentennial left us with memories of tall ships, big parades, and fireworks; but little of substance remains. Two upcoming bicentennials - of the ratification of the Constitution in 1987 and the Bill of Rights of 1991 - give us two new opportunities to insure that these become bicentennials of national significance. PAD and the legal profession can help our nation achieve this goal.

Education and the Bicentennials. For almost 200 years, a major purpose of public schools has been to teach students to understand the Constitution and Bill of Rights. Yet there is ample evidence - in educational surveys, opinion polls, and public events - that many Americans have not been educated to live accorindg to these documents. The coming bicentennials are appropriate occasions for lawyers, educators, and other citizens to recommit themselves to this task.

What can PAD do? We can take the lead in establishing a partnership among educators and lawyers to help plan and observe these bicentennials as national "educational" events. The goal would be to educate all citizens - in our schools and communities - about the importance and function of these basic legal documents in their individual lives and in our national life.

How? By thinking boldly; by viewing every school, courthouse, and townhall as a potential classroom in democracy; by seeing every lawyer, parent, and public official as a potential teacher. By not focusing on specific events or a specific year, but by starting an educational process that could begin in 1982 and could span the last two decades of the century.

How can the ideals and values of the Constitution and Bill of Rights be brought to life in your school and community? Here are a few possibilities:

- Create state and local bicentennial committees composed of lawyers, judges, educators, and civic leaders.
- Develop a plan for mobilizing educational, legal and community resources to educate all citizens about how the Constitution and Bill of Rights affect their lives.
- Seek legislation supporting educational programs for the bicentennials and providing assistance.
- Publish a directory of local bicentennial resources - speakers, films, books and special events.
- Help develop (or adapt) curriculum for local schools and community programs for adults on topics such as: The Role of the Citizen in Constituional Change, How to Implement the Constitution in Your Community, and the Constitution and the Future.
- Set up courthouse education centers. Designed for jurors, students, and other citizens, these centers could be established in every community courthouse. Under the theme "Implementing the Ideals of the Constitution," the centers could make basic information available in written form, on tape, or on film so that all citizens, regardless of reading ability, could understand how our legal system works and how it could for them. These centers could turn the nonproductive time of jurors and witnesses into valuable opportunities to "learn while waiting."
- Ask civic organizations and community groups to plan appropriate bicentennial workshops, conferences, and year-long programs.
- Encourage local TV networks, newspapers, and magazines to develop public service features on recent constitutional controversies such as those surrounding gun control, criminal due process, the death penalty, abortion, freedom of the press or student rights.
- Urge schools to develop community education programs to help local citizens become legally literate. Such schools could become neighborhood "drop in centers" for preventive legal education and might offer mediation and arbitration services to decrease unnecessary litigation.

These brief examples suggest the limitless possibilities of using the bicentennials to expand PAD's contribution to our schools, our communities and our nation. The goal would be to see that appropriate bicentennial information and activities would be available to every student and adult by 1987.

It's up to you. Will we improve on the events of 1976? Will the bicentennials reflect the values, ideas, and ideals of our basic legal documents? If we commit our time and our energy, we can help insure that these will be bicentennials of educational importance. This is an invitation to begin, and the time to begin is now.

Send your ideas and plans for the bicentennials to The Reporter. During the coming months we will keep you in touch with important bicentennial developments - from federal legislation to funding possibilities and challenging educational ideas.

*Adapted from an article by the author that originally appeard in ABA's Update on Law-Related Education; Fall 1979. David Schimmel is a lawyer, a Professor of Education at the University of Massachusettes, and Education Consultant to PAD's Juvenile Justice Program.

COALITION FOR AN INFORMATION/COMMUNICATION AGE CONSTITUTIONAL OBSERVANCE

TO ENABLE AMERICANS TO BECOME CAPABLE OF INFORMED SELF-GOVERNMENT

M. P. PEYSER-*Initiator*

Northview Estates - Lake Oscawana
Putnam Valley, New York 10579
(914) 526-2567

POSITION PAPER ON OBSERVANCE LEGISLATION - 9/81

I. BACKGROUND

Legislation to establish a purpose, Commission and appropriations for the Constitutional Bicentennial Observance in 1987 (HR 4981 and S477) has been dropped due to fiscal austerity.

This Coalition is forming to represent the interests of Americans in mainstream and alternative organizations to obtain Observance legislation in 1982 that will enable the future of our Constitutional system to be addressed and shaped by all citizens. We share the following:

1. Belief that the Constitution belongs to all Americans.

2. Deeply felt need to learn how to influence the course of developing citizenship and law-related education with regard for the human and social costs and benefits of widescale use of computers linked into telecommunications.

3. Agreement that an Observance can and must be designed as a mediating process and structure to unite Americans by enabling us to face our choices for the quality of democracy we desire to institute, to better serve our posterity.

4. Consciousness that the appropriate testimonial to the Constitution's value in this transformational era is to celebrate its principles and processes for adaptation by informed choice. The Observance is a natural event to celebrate using our legal tools and processes for our education to evolve ourselves for higher order governance with our informed consent.

In September, 1980, this Coalition offered testimony on HR 4981. It urges that the Observance be focused on the information/communication future of our Constitutional System of Freedom of Expression. It argued the following points on the public's need for this Observance focus:

THE PUBLIC'S NEED

1. A vision, design or program that configures the second stage of the American experiment with informed self-government through use of advanced science and technology for improving information and communication has not come forth from political leaders, academic/technical specialists, the commercial sector, or civic/public interest organizations. Macro-scale innovation proceeds massively and rapidly without articulate democratic theory, policies or public debate. Reports of local experiments and uses are not widely broadcast. The public does not know how to think about, use or assess the costs and benefits of computers for learning and of computers linked to telecommunications to improve citizen relations with citizens, with organizations and with government. The public needs a vehicle for learning and for informed participation in configuring the second stage of the American experiment.

2. The public does not have civic education or advocacy organizations with sophisticated policies, trained teachers/leaders and adequate funds to interact with government and the commercial sector on this macro-scale innovation in society.

3. The Congress, the Administration and the Political Parties have not framed issues for public debate, choice and representation on this macro-scale technological development. Without public dialogue and representation, the public is excommunicated from this critical arena of public decision-making.

4. The commercial sector of information and communication industries and services recommended that the federal government take an appropriate role in assisting to develop technologies and demonstrating new public services so that their users may be seen as a viable market by the private sector. (The National Research Council (National Academies of Engineering, Science and Medicine); "A Review of Selected Activities in the Office of Telecommunications, Department of Commerce," A Report; NRC/TELECOM/78/3; NTIS, Springfield, Va. 22161). This recommendation was not acted upon. The commercial sector has no responsibility to develop the civic market nor to train the public to use new facilities and services for citizen transactions.

5. Incontrovertible scientific evidence indicates that individual and societal use of these advanced technologies is changing the human mind; altering feelings, perceptions, communications and relationships. Whether the change will advance or destroy humanity, no one can say at this time. Arguments for both outcomes have been made by responsible authorities like M.I.T. Professor Seymour Papert and Marshall McLuhan. They must enter the citizen calculation for Constitutional innovation of such magnitude.

6. Quintessential Constitutional rights and responsibilities of citizens today are at stake in this macro-scale innovation.

A. First Amendment rights and responsiblities of citizens to free speech, belief, assembly, petition and press need contemporary respecification at the state-of-the-art level of these technologies and services which are intrinsic to their exercise. Similarly, the guarantees by government to protect and facilitate the operation of these rights need up-dating.

B. The affirmative side of the First Amendment, namely, the obligation of government to provide public education that enables citizens to be competent in exercising their rights and responsibilities in governance, is involved, according to Yale Law Professor Thomas I. Emerson, in this macro-scale technological innovation.

C. Tenth Amendment rights and responsibilities of parents, educational communities and state governments to determine the education of the young are most fundamentally involved in this technological innovation.

D. Deprived of their rights to set contemporary standards for governmental obligations to maintain Constitutionally valid democracy, citizens lose/abdicate responsibility for governance. Individual as well as national identity and self-esteem diminish with concomitant loss of vitality and productivity in society.

Despite the climate of fiscal austerity, this Coalition thinks that Congress must legislate this Observance purpose and Commission we propose into public reality for the collective good. Such an act of legitimization of the Observance is indispensible to arousing voluntary efforts and organizing them to address the future of our Constitutional system for the good of the people and the government in informed participatory planning and management of our common destiny. The registering of Congressional and Presidential confidence in the people to plan and conduct a useful Observance for on-going democracy will demonstrate unprecedented wisdom. More than any other act of leadership imaginable now, this could veer the nation to a healthier course.

And this act would convince the people that the government means what it has been saying -- that we must become self-reliant and cooperative in our communities and among our sectors because we have no other choice for advancing our common interests.

We call this period of transformation ECODEMOCRACY.© The Constitutional Observance through which we learn how to transform ourselves according to Constitutional heritage and principles, we call The ECODEMOCRACY OBSERVANCE. The Trilateral Citizens Commission to conduct the Observance, discussed ahead, we call The ECODEMOCRACY COMMISSION.

II. FEATURES PROPOSED FOR THE OBSERVANCE LEGISLATION

1. PURPOSE - to enable Americans to address the future of our Constitutional system of freedom of expression, particularly as computers and telecommunications options become available that may improve the form and substance of citizenship and law-related education as well as citizen and government relations.

chief financial beneficaries of the public's investment in research and development of computers in World War II and in satellite communications through the space programs. The Trilateral Citizens Commission will publicly acknowledge all contributions at regular intervals.

3. Public distrust and dislike of governance at this time indicates that a governmental commission for the Observance would not be widely supported. A non-governmental Commission has a fresh opportunity to create the conditions in which public trust can evolve as citizens become competent in understanding public reality through the Observance programs.

4. PROGRAMS AND PROCESS

1. To design the overall Observance and particularly the first stage, the Commission members should engage in an educational program for themselves. Through a seminar program, they can explore all options for development with a wide range of scholars, technicians and citizens who are experienced through early experimentation with new technologies. If funds permit, this educational program should be televised over PBS to stimulate public interest and to start the public's education and participation in the Observance.

2. An Observance television series should be devised for educating all Americans to the technical and skills aspects of new technologies, much like programs that business equipment companies and personal computer companies employ to sell and train new users. Naturally, Observance programs would not feature or favor particular companies, products or services. They would deal with the matter generically. The TV series should also relate American history, law, and experience to our present and future governance as information, communication, education, representation and people evolve with advanced technologies, greater sensitivity to rights and needs, and increased competence to manage complex interdependencies.

3. Regional, state, city and community Observance programs should be established to carry the substance of the TV series into local discussion and activities. Whole educational communities should address the education of the young for civic competence and civic virtue as we approach our third century. Community radio and cable systems should be used to facilitate communications about the Observance activities and to present these activities. An exchange of programs among communities would stimulate ideas and cooperation in larger units.

4. The major Observance program, requiring several years of preparation, could be the negotiation of a Social Compact for America's Third Century. Considerable scholarly work of interdisciplinary nature has already been undertaken on contemporary Social Covenants by the Center For The Study of Federalism at Temple University under a grant from the National Endowment For The Humanities. Their deliberations could be portrayed, dramatically and graphically, in the Observance TV series to generate thought and discussion by Americans. The practical aspects of negotiating a Third Century Code of Civilized Conduct to which we would commit ourselves and our posterity need to be fully considered and decided by all Americans.

5. Major programs for the Bill of Rights Observance and the Celebration of Telecommunicating Democracy in 2000 would evolve with public education, participation and experience at judging our progress and assessing our needs.

2. TIME PERIOD - 1982-2000 will cover an Observance of the Constitution's Bicentennial in 1987, an Observance of the Bicentennial of the Bill of Rights in 1991, the high innovation of computers and telecommunications throughout society and a Celebration of Telecommunicating Democracy in 2000.

Reasons For a Two-Decade Observance

1. It will take at least this much time to integrate human, social, economic and political development with technological development and with Constitutional development. This integrated approach is the appropriate testimonial to the value of our Constitutional system for participatory experimentation and development with the informed consent of the people.

2. To start with a clear intent to celebrate the mature development of our form of Constitutional democracy in our third century and the world's third milenium creates a climate of hope and optimism, much needed at the start to generate public participation.

3. It is the most cost effective education of the young, of adults and all professional educators that our nation could possibly produce under present fiscal restraints, and with the underdevelopment of knowledgeable personnel to guide and to teach what this second stage of the American experiment with informed self-government can be and must be about.

3. A TRILATERAL CITIZENS COMMISSION FOR THE OBSERVANCE shall be composed of representatives of: (1) organized and independent citizens, (2) academic and technical specialists germaine to these considerations and (3) the business sector of small and large companies -- all who volunteer to cooperate to fulfill this important public need.

A. It is a non-governmental body but it shall work with the Governors and Departments of Education in the fifty states to create, implement and refine the Observance programs over two decades.

B. Qualifications for appointment by the President in the first instance and subsequently will be established through Congressional inquiry and testimony. The legislation will establish the terms for representative perceptions, beliefs and interests in American society to be continuously expressed and consensualized in the decision of this body over two decades.

C. The body is responsible for its own self-governance, fund-raising and generation of public education and participation programs. It will operate openly with full public participation and report.

D. The body is charged with the responsibility to fulfill the purpose established for this Observance to the best of its ability. This responsibility entails serving the interests of all Americans fairly and with equal opportunity to learn, to influence and to contribute to this national rite of passage into America's third century.

Reasons For A Non-Governmental, Non-Federally Funded Commission

1. Members of Congress and the Administration are fully challenged and overworked with their present responsiblities during this critical era. The burden of thinking ahead about the opportunities for developing the citizenry for more mature constitutional governance is not assigned to any governmental agency. The matter is clearly in the realm of citizen rights and responsiblities.

2. Present restraints on public funds do not permit public funding of this Observance on the scale that is needed to be effective. Following the position of President Reagan's Administration, the citizens and the private and economic, technical and commercial sectors are called upon to provide the funds and other resources that will be needed to achieve the important mission of uniting Americans for choosing our common future through the Observance.

A. The Trilateral Citizens Commission will receive and administer the funds and account to the public.

The Observance and Observance programs cannot be bought or commercially sponsored in media. The Commercial Sector, particularly the 51% of U.S. economy in the information/communication fields, will naturally be the primary financial contributors since they are the